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CNO REVIEW

January 2014



2013 Year in Review

A Look Back at Some of the Stories that Made
Headlines this Past Year. (Story on Page 6)

About Court News Ohio

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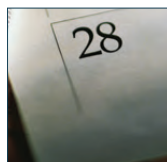
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Cases

Visit courtnnewsOhio.gov for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

Supreme Court of Ohio

State Controlling Board Had Legal Authority to Approve Request for Federal Medicaid Funds

The state Controlling Board did not violate the law when it approved the Ohio Department of Medicaid's request for increased appropriation authority to accept federal Medicaid funds available to the state under the federal health care law, the Supreme Court ruled on December 20. When the General Assembly passed the state budget bill earlier this year, it included a provision prohibiting Ohio's Medicaid program from expanding to cover more people under the federal health care law. The governor vetoed that provision, and the General Assembly did not override the veto. In the court's lead opinion, Chief Justice **Maureen O'Connor** stated that after Governor **John Kasich's** veto, the law allowed the state to provide the optional Medicaid coverage for a new group of Ohioans. Given that authority, she wrote, the Controlling Board was permitted to increase appropriations to cover the costs of insuring more people.

State ex rel. Cleveland Right to Life et al.
v. State Controlling Board et al.
Slip Opinion No. 2013-Ohio-5632

Right to Confront Witnesses Not Violated When Defendant Stipulates to Report from Expert Witness Who Does Not Testify at Trial

A Marietta man who claimed a trial court took away his right to confront a witness about a DNA report lost his appeal on November 27 in the Supreme Court of Ohio. During trial, **David Arden Keck II's** attorney agreed (stipulated) to the admissibility and content of a report from a forensic analyst who was not called to testify

in person. In a unanimous decision, the court ruled that a second expert's testimony that relied on the stipulated report did not infringe on Keck's constitutional right to confront witnesses against him. The decision affirmed the judgment of the Fourth District Court of Appeals.

State v. Keck
Slip Opinion No. 2013-Ohio-5160

In Separate Cases, Supreme Court Finds that Two Non-Lawyers Practiced Law

On December 5, the Supreme Court determined that a former law school student and a real estate appraiser who are not attorneys engaged in the practice of law without being admitted to the bar or having appropriate certification. **Paige N. Casey** was a law student at the Ohio State University Moritz College of Law until October 2010 when she was dismissed. She neither completed her law degree nor has ever been admitted to practice law in Ohio. In the court's unanimous decision, it adopted the report of the Board on the Unauthorized Practice of Law and found that Casey engaged in the unauthorized practice of law (UPL) because she provided legal services without being admitted or certified to practice law, and she falsely represented to others that she was permitted to practice law. In a second UPL case, the court unanimously held that a real estate appraiser – **John D. Cleminshaw** – who questioned a witness during a hearing of the Wayne County Board of Revision had engaged in the unauthorized practice of law.

Disciplinary Counsel v. Casey
Slip Opinion No. 2013-Ohio-0593
Ohio State Bar Assn. v. Cleminshaw
Slip Opinion No. 2013-Ohio-5200

Courts of Appeals

Conviction Overturned in Lost Dog Reward Case

The Ninth District Court of Appeals ruled November 27 that a man who was involved in the attempted exchange of a lost dog for a \$500 reward was not guilty of coercion because the jury was not instructed on considering complicity, and the evidence showed the man did not directly participate in coercing the dog's owners for the reward money. In the unanimous decision, Judge **Beth Whitmore** wrote that the evidence did not support a conviction of coercion: "The State's argument that there is sufficient circumstantial evidence of (Pierre) Cabell's guilt is wholly inconsistent with its position at trial, which was, that Cabell was complicit. Further, there was no evidence that Cabell ever made a 'direct threat' or a 'threat by innuendo.'"

Akron v. Cabell
2013-Ohio-5113

Second District: Retrial Denied for Convicted Murderer

The Second District Court of Appeals decided November 26 not to grant a Dayton man another retrial for murder because there was no racial discrimination when the prosecutor dismissed a potential juror. When the trial court did not complete the full three steps in a three-step U.S. Supreme Court analysis in concluding **James A. Russell** failed to establish a case of racial discrimination, the appeals court again remanded the matter to the lower court. By the time another *Batson v. Kentucky* hearing was scheduled for October 2012, the original trial judge was no longer with the common pleas court,

(Cases continue on page 11).

HappeningNow

News and notes from courthouses across the Buckeye State

Conduct Guidelines Issued for Prosecutors and Defense Attorneys

The Supreme Court of Ohio Commission on Professionalism released a new best practices publication to promote professionalism among Ohio's lawyers. *The Professionalism Dos and Don'ts: Conduct of Prosecutors and Defense Attorneys* lists a number of guidelines for lawyers on both sides of a criminal matter.

"The integrity of our criminal justice system depends a great deal on the professionalism of the lawyers who prosecute the cases and the lawyers who defend the accused," Commission on Professionalism Secretary **Lori Keating** said. "This publication serves as a reminder that prosecutors and defense attorneys are officers of the court and should work diligently and respectfully as advocates."

Keating added that the commission worked with criminal law practitioners nominated by the Ohio Prosecuting Attorneys Association and the Ohio Association of Criminal Defense Lawyers to prepare the list that includes a reminder to both prosecutors and defense attorneys to treat opposing counsel with the utmost professionalism, even when they disagree.

The new publication was distributed to about 400 prosecutors at the Ohio Prosecuting Attorneys Association's annual meeting and at an event hosted by the Ohio Association of Criminal Defense Lawyers. The series of practices is being incorporated into professionalism continuing legal education seminars, distributed by judges to practitioners who come before them, and taught to law school students.

View the complete list of Professionalism Dos and Don'ts: Conduct of Prosecutors and Defense Attorneys at www.sc.ohio.gov/Publications/AttySvcs/conduct.pdf.

▶ FEATURED VIDEO



Encouraging Civic Education. Chief Justice **Maureen O'Connor** and Ohio State Bar Association President **Jonathan Hollingsworth** appear in two new videos encouraging Ohio teachers to participate in Mock Trial and Moot Court — civic education programs offered through the Ohio Center for Law-

Related Education. The videos also feature each case that will be presented during this year's Mock Trial and Moot Court competitions. Check out the videos at: www.courtnewsOhio.gov/happening/2013/OCLRE_112113.asp.

Specialized Dockets Conference Features Alternative Therapy Practices

Alternative therapy practices, including the use of horses and drums, were new topics taught at the Ohio Specialized Dockets Practitioner Network 10th annual conference on November 21.

Emphasizing a team approach to providing treatment for individuals served by specialized dockets in Ohio courts, the conference allowed judges, court staff, and treatment teams to learn about new strategies and treatment options. Around 450 participants who work in specialized dockets, including mental health, drug, OVI, family, juvenile, veterans, and domestic violence courts participated in the conference — the largest turnout in the conference's 10-year history.

There were 18 break-out sessions during the conference, which included emerging alternative therapies. Representatives from Marion County Family Court talked about how equine therapy helps build trust and social skills for at-risk youth and families.

Also new to the conference was the topic of therapeutic drumming. The Central Ohio Symphony helps Delaware County with a program that drives positive progress for certain individuals with the use of drumming circles.

Chief Justice **Maureen O'Connor** told the group that Ohio is creating one of the first specialized dockets certification programs in the county. In November 2012, the Ohio Supreme Court adopted rule amendments that outline procedures to receive Supreme Court certification for a specialized docket program. Specialized docket programs are required to be initially certified by January 1, 2014. There are currently seven courts officially certified and more than 120 in the process of being certified.

Dr. Cardwell Nuckols served as the conference keynote speaker. Nuckols, a widely published clinician, spoke about the new standard for diagnosing individuals with psychiatric disorders. The conference is offered by the Supreme Court of Ohio, in conjunction with the Ohio Department of Mental Health & Addiction Services.

Supreme Court Offering Program to Resolve Government Disputes

Ohio government officials are being urged to participate in a statewide survey to create a new dispute resolution program. A formal process to mediate disputes among public officials will be finalized based on the survey results from all levels of Ohio government.

The Ohio Supreme Court's Dispute Resolution Section distributed surveys in late November to state, county, and local public officials. In January 2012, the Supreme Court assumed the conflict resolution services for government officials previously offered by the Ohio Commission on Dispute Resolution and Conflict Management, which was abolished by the General Assembly on June 30, 2011.

In a letter to survey recipients, the Supreme Court Commission on Dispute Resolution outlined the goals of the program:

"The Supreme Court of Ohio Dispute Resolution Section offers government conflict resolution services to provide flexible, practical, and confidential assistance to resolve and prevent conflict among public officials involving budget, public records requests, and other organizational issues without court involvement.

"Conflict resolution processes, such as mediation and facilitation, are powerful tools that can be used to clarify communications, build stronger working relationships, and reach consensus," the letter continues. "Public officials have found that involving an impartial third party is an effective way to reach agreements and prevent disputes from escalating into unproductive, contentious impasses."

Jacqueline Hagerott, manager of the Dispute Resolution Section, said the costs of the conflict services will be covered by the Supreme Court. She also stressed the importance of receiving feedback to design the program to best meet the needs of the government officials.

She said the survey will provide the necessary feedback to the Supreme Court commission as it redevelops the process and training programs previously offered by the former statewide commission. The commission will use the data to make a recommendation to the Supreme Court and its staff on how best to deliver services and training programs.

Government officials with questions or those who need mediation or facilitation should contact Hagerott at jacqueline.hagerott@sc.ohio.gov.

Updated Mayor's Court Stat Reporting Portal Unveiled

Ohio's 300-plus mayor's courts will receive prompts to comply with caseload reporting requirements under a new online portal developed by the Ohio Supreme Court.

This feature and others will greet mayor's court staffs when they register their courts for 2014 by the January 15, 2014 deadline.

According to **Tasha Ruth**, case management counsel in the Case Management Section, mayor's courts gained access to the site in December in order to become more familiar with how to navigate the streamlined portal.

Ruth said another enhancement will enable users to track the educational credit compliance (or exemptions) of mayors and magistrates who hear mayor's courts cases. The public will also have access to the new portal to view information such as caseloads that each mayor's court handles.

UPL Board Elects Chair and Vice Chair



The Ohio Supreme Court board that investigates the unauthorized practice of law elected its 2014 leadership on December 11.

John J. Chester Jr., (pictured) a partner at Taft, Stettinius & Hollister LLP in Columbus, will serve as chair and **Robert V. Morris II**, a magistrate at the Franklin County Probate Court, will serve as vice chair. Chester served as vice chair this year.

Chester, who is serving his second term on the board, was originally appointed in 2010. Morris was appointed to his first term in 2012.

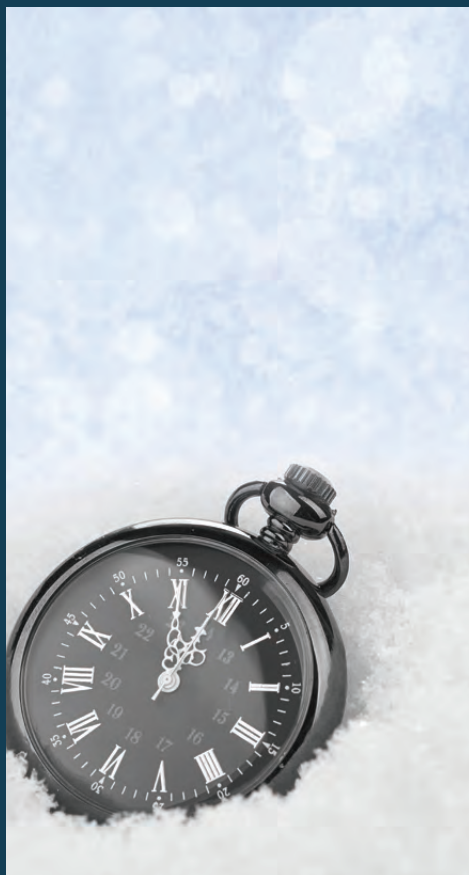
Chester counsels clients in corporate and business law matters, real estate, and civil litigation. Morris joined the probate court in May 2012 after 33 years as a practicing attorney.

Outgoing chair **Curt Sybert**, an attorney at Scherner & Sybert LLC in Powell, will complete his second term with the board on December 31.

Grievances & Discipline Board Re-Elects Chair, Vice Chair



Wooster attorney **David E. Tschantz** (pictured above, left) and Cincinnati attorney **Paul M. De Marco** (above, right) will serve another year as chairman and vice chairman of the Ohio Supreme Court's Board of Commissioners on Grievances & Discipline after their re-election December 13. Their one-year terms begin January 1, 2014.



Year in Review 2013

Among the top stories in 2013, CNO Review marked three milestone anniversaries, new proposals impacting court operations, and topical issues courts and judges grapple with across Ohio.

Photo: merznatalia/iStock/Thinkstock



WINDS OF CHANGE >>

Ring in the New Year, the CNO Review in January documented the changeover in courts across the state, including three new justices on the Ohio Supreme Court.

“Of the 724 judgeships in the state, 37 posts will have a new judge behind the bench with the majority of those filled by attorneys who have never been judge,” according to the story.

The story also referenced the training new judges receive.

“The newest members of Ohio’s judiciary may come to the job with a lack of experience, but they won’t arrive empty-handed. Over four days in early December, each attended an intense and comprehensive new judge orientation organized by the Ohio Judicial College.”

The March issue explained the temporary quarters the Logan County courts had to make do with in Bellefontaine after the courthouse suffered damage from a June 2012 windstorm.

The general division moved to the jail facility outside of town. The family court divisions moved to Veterans Memorial Hall across the street from the courthouse. The clerk’s office and probation department moved into the Juvenile Detention Center. Other clerk functions, as well as judges and magistrates offices moved in with the commissioners.

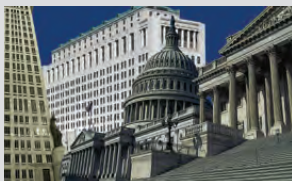
“Within an hour (on the Monday morning after Saturday’s storm) we were issuing marriage licenses, we were having court hearings,” county commissioner Tony Core said. “All of that continued to operate and truly everybody just chipped in and made it work.”

CURRENT TRENDS >>



Shale Drilling. In July’s issue, CNO Review noted that sitting and retired judges working in eastern Ohio recently gathered to talk about common issues in their courts caused by the influx of oil and gas litigation from Utica shale drilling.

Along with an increase in sales-tax collections and a decrease in unemployment in Carroll County, one of the counties at the heart of the oil and gas production boom, the court system also felt the effects. Oil and gas companies have reached agreements with thousands of landowners to lease land for drilling. Those agreements have spawned litigation.



Sequestration. While the sequestration didn’t last forever, the 5 percent across-the-board cut in federal funding that began in March had an indirect impact on Ohio’s state court system, according to May’s CNO Review.

Many courts across the state apply for and use federal grant money for special projects that would not occur without it. Money allocated from the U.S. Department of Health & Human Services Court Improvement Program pays for coursework through the Ohio Supreme Court’s Judicial College and the work of the Advisory Committee on Children, Families, and the Courts, including some training. A few courts operating specialized dockets receive U.S. Department of Justice grant money. Many more local courts seek out funding from the Byrne Memorial Justice Assistance Grant, also from the Department of Justice.

CELEBRATING ANNIVERSARIES >>



The Emancipation Proclamation. In February's issue, a story about the 150th anniversary of the signing of the Emancipation Proclamation by President Abraham Lincoln featured interviews with several legal scholars who to this day continue to study the document's legal underpinnings.

Sharon Davies, a law professor and executive director for the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University, said it's not hyperbole to characterize the Emancipation Proclamation as "the most important Executive Order to be signed in the history of the American presidency."



Gideon's Promise. In April, CNO Review turned its focus to a 50-year-old U.S. Supreme Court case, *Gideon v. Wainwright*, and how a jailhouse lawyer changed history in the landmark case. In an interview, Ohio Public Defender **Tim Young** discussed the case that requires states to provide counsel for indigent defendants under the Fourteenth Amendment.

"We are a long way from truly meeting Gideon's promise today," Young said. "We have made good progress, but the guaranteed right to counsel is an unfulfilled constitutional right."



The Voice of Ohio's Judges. September's cover story celebrated the "Voice of Ohio's Judges," as the Ohio Judicial Conference turned 50 years old. Executive Director **Mark R. Schweikert** said the conference's original purpose still remains five decades later: to improve the administration of justice, to encourage uniformity in the application of the law, and to be a collegial, nonpartisan place for judges to exchange ideas and discuss common challenges.

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In honor of Veterans Day, the November edition of the CNO Review featured interviews with three representative members of the U.S. Armed Forces, who also happen to be lawyers and judges.



Col. Duncan D. Aukland, chief legal counsel for the Ohio Adjutant General's Department, who explained how he

chose the law as his vocation and what led him to join the military, or the "family business" as he calls it.



Summer Moses, an attorney in the Executive Agencies section of the Ohio Attorney General's Office, who discussed

her decision to enlist in the Army National Guard following the September 11, 2001 terrorist attacks and what she learned in the military.



Ohio Supreme Court Justice **William M. O'Neill**, who described his unique assignment in the U.S. Army during Vietnam

and the array of jobs he held before his election to the Supreme Court in November of 2012.

PROPOSALS >>

The June edition featured highlights from Chief Justice **Maureen O'Connor's** eight-point plan to strengthen judicial elections. The chief justice unveiled the plan at the annual Ohio State Bar Association convention in May.

While acknowledging that Ohio enjoys one of the best systems of justice anywhere in the world, Chief Justice O'Connor pointed to several persistent problems that are cause for concern and were her motivation for the proposal:

- Polls show that the public views judges as susceptible to political influence.
- Voter participation in judicial elections on average is 25 percent less than participation in races for the executive and legislative branches.
- There is evidence that the electorate could use more information about judicial races when they step into the voting booth.

Enhanced Language Services. In October, the CNO Review reported on another speech by Chief Justice O'Connor, where she announced a new initiative in a continuing effort to augment services for deaf or limited English-proficient litigants in Ohio courts. The chief justice discussed enhancing language services during her annual address to Ohio's judges the previous month.

The new language telephone line is a free, 24-hour, remote interpretation service intended to operate as though the interpreter is standing in the courtroom by communicating with the litigant about the judge's instructions or relaying questions from and answers to the prosecution or defense.

Leadership Changes

The Ohio Common Pleas Judges Association, Ohio Association of Juvenile Court Judges, and the Ohio Association of Domestic Relations Judges met in November and December and elected leadership for 2014.

Common Pleas Judges — Judge Jonathan P. Hein, President

Judge Hein is halfway through his third term on the Darke County Common Pleas Court bench, already having served two full six-year terms after his election in 1998 and re-election in 2004 and 2010. Previously, he served as the Darke County prosecutor for six years and as an assistant prosecutor in the office for eight years. He earned his law degree from the University of Toledo College of Law in 1981 and was admitted to the Ohio bar later that year.

President Elect – Judge Guy L. Reece II
Franklin County Common Pleas Court

Fourth Vice President – Judge Jody M. Luebbers
Hamilton County Common Pleas Court

First Vice President – Judge Thomas M. Marcelain
Licking County Common Pleas Court

Secretary Judge – Barbara P. Gorman
Montgomery County Common Pleas Court

Second Vice President – Judge David T. Matia
Cuyahoga County Common Pleas Court

Treasurer Judge – Mark K. Wiest
Wayne County Common Pleas Court

Third Vice President – Judge Linda J. Jennings
Lucas County Common Pleas Court

Past President – Judge Howard H. Harcha III
Scioto County Common Pleas Court

Juvenile Judges — Judge Debra L. Boros, President

Judge Boros was re-elected in 2010 to another six-year term on the Lorain County Domestic Relations/Juvenile Court bench. She first joined the court in 1999. Previously, she worked as an assistant prosecutor in the Lorain County Prosecutor's Office for 10 years. She earned her law degree from Cleveland State University's Cleveland-Marshall College of Law in 1988 and was admitted to the Ohio bar later that year.

President Elect – Judge Matthew P. Puskarich
Harrison County Probate/Juvenile Court

Treasurer – Judge Kathleen Dobrozsi Romans
Butler County Juvenile Court

Secretary – Judge Robert C. DeLamatre
Erie County Juvenile Court

Immediate Past President – Judge Anthony Capizzi
Montgomery County Juvenile Court

Domestic Relations Judges — Judge Richard P. Wright, President

Judge Wright is serving his first six-year term on the Licking County Domestic Relations Court bench after his election in 2008. Previously, he practiced law for 21 years with his father and as a sole practitioner with Wright Law Offices located in Columbus and Newark. He earned his law degree from Capital University Law School in 1987 and was admitted to the Ohio bar later that year.

President-Elect – Judge Diane M. Palos
Cuyahoga County Domestic Relations Court

Secretary – Judge Dan W. Favreau
Morgan County Common Pleas Court

Vice President – Judge Paula C. Giulitto
Portage County Domestic Relations Court

Treasurer – Judge Leslie Ann Celebrezze
Cuyahoga County Domestic Relations Court

12th District Selects Leadership

By a unanimous vote of their colleagues on the Twelfth District Court of Appeals, Judge **Robert P. Ringland** (pictured near right) will become presiding judge and Judge **Robert A. Hendrickson** (pictured far right) will serve as the administrative judge in 2014.



As presiding judge, Judge Ringland will preside over all court sessions and meetings of the full court. Judge Hendrickson's duties include supervising the administration, docket and calendar of the court. The administrative judge also serves as presiding judge during the absence of the presiding judge.

Judge Ringland, who lives in Batavia, has served on the Court of Appeals since January 2009 and was formerly the court's administrative judge. Prior to serving on the Court of Appeals, he was a judge on the Clermont County Court of Common Pleas for 26 years. He is the past president of the Ohio Common Pleas Judges Association. Judge Ringland currently serves as a member of the Board of Commissioners on Grievances & Discipline of the Supreme Court of Ohio. He also served by assignment on the Ohio Supreme Court, and the First, Second, and Fourth District Court of Appeal as a visiting judge.

Judge Hendrickson, of Monroe, was elected to the Court of Appeals in 2008. Before beginning his first term on February 9, 2009, Judge Hendrickson served as Butler County Area III Court judge. He also served as a city councilman for the city of Monroe, a magistrate for the Hamilton Municipal Court, and as acting prosecutor for both the Hamilton and Middletown municipal courts.

The Twelfth District Court of Appeals is located in Middletown, and reviews cases from Brown, Butler, Clermont, Clinton, Fayette, Madison, Preble, and Warren counties. The judges of the court currently include Judge Ringland, Judge Hendrickson, Judge **Stephen W. Powell** of West Chester, Judge **Robin N. Piper** of Oxford, and Judge **Michael E. Powell** of Lebanon.

Golden Gavel Honorees

Chief Justice **Maureen O'Connor** assisted in handing out seven Golden Gavel awards to retiring judges with at least 10 years of service on the bench at the Ohio Common Pleas Judges Association Annual Winter Conference on December 5.

The Golden Gavel honorees were:

Judge Robert D. Nichols
Madison County Common Pleas Court

Judge Michael W. Ward
Athens County Common Pleas Court

Judge James D. Henson
Richland County Common Pleas Court

Judge Leonard F. Holzapfel
Jackson County Common Pleas Court

Judge Jennifer L. Sargus
Belmont County Common Pleas Court

Judge Judith L. Hunter
Summit County Common Pleas Court

Judge Michael J. Nunner
Harrison County Common Pleas Court

American Judges Association Recognizes Judge Adrine



A national judges group honored a Cleveland Municipal Court judge with an award in recognition of his innovative steps to reduce domestic violence.

Judge **Ronald B.**

Adrine received the second Elizabeth Hines Domestic Violence Award from the American Judges Association at the group's annual conference this year.

As the administrative and presiding judge for the Cleveland court, Judge Adrine is serving his sixth and final six-year term after his initial election in 1981. By the time this term ends, he will be age-barred by the Ohio Constitution from running for judge again.

The AJA noted that Judge Adrine has lectured extensively on domestic violence issues for judges and others, and he co-chairs the Advisory Board of the National Judicial Institute on Domestic Violence.

"I am humbled by this award," Judge Adrine said. "It is always heartening to receive the recognition of your peers. I thank the American Judges Association for finding me worthy. I do this work because I firmly believe judges are uniquely qualified to make a difference in this generally misunderstood area of the law. However, judges can do so only if they are educated to understand the complex nature of abusive interpersonal relationships and the appropriate role that an enlightened jurist can play."

Judge Adrine's leadership in the domestic violence arena has extended to several statewide posts as well, including the Supreme Court of Ohio's Domestic Violence Task Force, the Governor's Task Force on Family Violence in Ohio, and the Ohio Attorney General Victims Assistance Advisory Board. Additionally, he is co-author of "Ohio Domestic Violence Law," part of Thomson-West Legal Publishing Company's Ohio Handbook Series. Judge Adrine also helps to increase Ohio municipal court judges' understanding of domestic violence by serving as a frequent instructor for the Supreme Court's Ohio Judicial College New Judge Orientation program.



CNO Legislative Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

Photo courtesy of the Ohio Statehouse Photo Archive

HB 9, Rep. Peter Stautberg (R-Cincinnati)

To add to and clarify the powers of a receiver and to provide a procedure for a receiver's sale of real property.

STATUS: Introduced in the House and referred to the House Judiciary Committee on January 30, 2013.

HB 74, Rep. Marlene Anielski (R-Independence)

To expand the offenses of menacing by stalking and telecommunications harassment and to prohibit a person from knowingly causing another person to believe that the offender will cause physical harm or mental or emotional distress to a member of the other person's immediate family.

STATUS: Introduced in the House and referred to the House Judiciary Committee on February 20, 2013. Passed the House on December 4, 2013 (89-3).

HB 104, Rep. Margaret Ann Ruhl (R-Mount Vernon)

To make changes to the laws governing the civil commitment of and treatment provided to mentally ill persons.

STATUS: Introduced in the House and referred to the House Judiciary Committee on March 19, 2013. Passed the House on December 11, 2013 (87-6).

HB 126, Rep. Stephanie Kunze (R-Hilliard), Rep. Michael Stinziano (D-Columbus)

To allow a person who creates a durable power of attorney for health care to authorize the attorney in fact to obtain health information about the person, to make an individual who is designated as an alternate

attorney in fact ineligible to witness the instrument that creates a durable power of attorney for health care, to permit the principal to nominate a guardian in a durable power of attorney for health care, and to establish a presumption that a valid living will declaration revokes all prior declarations.

STATUS: Introduced in the House on April 16, 2013. Passed the House on June 12, 2013 (93-0). Referred to the Senate Civil Justice Committee, where it was reported out of committee during the fifth hearing on November 13, 2013. Passed the Senate on November 20, 2013 (33-0). Signed by the Governor on December 19, 2013.

HB 251, Rep. Nick Barborak (D-Lisbon)

To eliminate the special sentencing mechanism that applies for most felonies of the fourth and fifth degree and that generally provides for a community control sanction for such offenses.

STATUS: Introduced in the House on August 21, 2013 and referred to the House Judiciary Committee on September 19, 2013. The bill was amended during its fourth committee hearing on December 10, 2013.

HB 261, Rep. Jim Butler Jr. (R-Oakwood), Rep. Michael Stinziano (D-Columbus)

Companion Bill SB 219, Sen. Larry Obhof (R-Medina)

As suggested by the Supreme Court, this legislation seeks to abolish the office of the Court of Claims commissioner, to transfer the powers of a judge of the Court of Claims to the court; to specify certain powers of a Court of Claims magistrate, to modify the Attorney General's annual report on the crime

victims compensation program, to conform existing law to the existing filing period for filing a claim for reparations by an adult, to eliminate the procedure for filing an affidavit of disqualification for a judge of a municipal or county court and instead include the disqualification of a judge of a municipal or county court and a judge of the court of claims within the procedure for filing an affidavit of disqualification for a probate judge, a judge of a court of appeals, and a judge of the court of common pleas, and to change the basis of the per diem compensation of a retired judge who serves on the Court of Claims from the annual compensation of a judge of a court of appeals to the annual compensation of a judge of a court of common pleas.

STATUS: Introduced in the House on September 10, 2013 and referred to the House Judiciary Committee on October 16, 2013. The third committee hearing was on December 4, 2013, where the bill was amended and reported out of committee. No effective date listed as of December 27, 2013.

COMPANION BILL STATUS: Introduced in the Senate October 29, 2013. Referred to Senate Civil Justice Committee on October 30, 2013. The second committee hearing was December 4, 2013, where the bill was reported out of committee. No effective date listed as of December 27, 2013.

HB 383, Rep. Cheryl Grossman (R-Grove City)

To authorize the prosecuting attorney of a county or chief legal officer of a municipal corporation to issue an investigative subpoena for any criminal offense.

STATUS: Introduced in the House on December 11, 2013.

HB 385, Rep. Nickie Antonio (D-Lakewood), Rep. Dan Ramos (D-Lorain)

To abolish the death penalty.

STATUS: Introduced in the House on December 11, 2013.

SB 23, Sen. Bill Beagle (R-Tipp City), Sen. Dave Burke (R-Marysville)

Regarding access to adoption records.

STATUS: Introduced in the Senate on February 12, 2013. Referred to the Senate Medicaid, Health & Human Services Committee on February 13, 2013. Passed the Senate on December 4, 2013 (33-0). One House Judiciary Committee hearing was on December 10, 2013, where it was reported out of committee. Passed the House on December 11, 2013 (88-2). Signed by the Governor on December 19, 2013. No effective date listed as of December 27, 2013

SB 250, Sen. Shannon Jones (R-Springfield), Sen. Frank LaRose (R-Copley Twp.)

To require that certain pre-birth adoption notifications be sent to each putative father; to permit a person to advertise that the person will adopt children; to define for purposes of an adoption, "living expenses" of a birth mother, to specify how they must be paid, and to allow a credit or refund of those expenses; and to increase, and make refundable, the adoption income tax credit.

STATUS: Introduced in the Senate on December 4, 2013.

(Cases, continued from page 3).

and the hearing was held by the judge's successor. The new judge found credible the prosecutor's concerns about the juror's age, work history, and how strongly the juror would maintain her viewpoint. The court also found that the challenge was not a pretext for discrimination. In agreeing with the trial court, Appeals Court Judge **Jeffrey E. Froelich** wrote in the decision: "We also cannot find that the trial court's conclusions that the prosecutor's statements were credible and not a pretext for discrimination were clearly erroneous. In resolving this third step, the United States Supreme Court has made clear that the ultimate issue is whether the trial court believed that the prosecutor exercised the peremptory challenge for a nondiscriminatory reason."

State v. Russell
2012-Ohio-6051

Court of Claims

Wrongfully Imprisoned Man to Receive \$600,000 from State

A wrongfully imprisoned Cleveland man should receive more than \$600,000 from the state for the time he was incarcerated and for lost wages, according to a November 27 Court of Claims decision. The court found by a preponderance of the evidence that **Darrell Houston** proved he was entitled to the compensation. As outlined in state law, proving wrongful imprisonment also entitles an individual to receive compensation for court costs, attorney fees, and expenses associated with his appeals. The court awarded Houston more than \$118,000 for these expenses. Houston already received \$264,736.99 of a preliminary judgment from the court representing a portion of the mandated judgment total for the time he spent behind bars. The State Controlling Board must approve final release of the awarded funds.

Darrell Houston v. State of Ohio
Case No. 2012-08516 WI

WINTER CONFERENCES

February 3 – 5
**Association of Municipal
& County Judges of Ohio
Winter Conference**
Member Judges, Columbus

MISCELLANEOUS

**Ohio Community
Corrections Association**
www.occaonline.org

January 23
**Training: “Assisting Criminal
Justice Clients Experiencing
Mental Health Concerns:
Noticing, Approaching, and
Connecting”**
Columbus

**Ohio Center for Law-
Related Education**
www.ocltre.org/calendar

January 24
**We the People
High School State Competition**
Columbus

January 31
**High School Mock Trial
District Competition**
Multiple Sites

Judicial Candidate Filing Deadline

4 P.M. FEBRUARY 5
FOR PARTY CANDIDATES

Candidate Requirement Guide:

[www.sos.state.oh.us/SOS/Upload/
publications/election/2014/2014_CRG.pdf](http://www.sos.state.oh.us/SOS/Upload/publications/election/2014/2014_CRG.pdf)

The Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Judicial College Courses

judicialecademy.ohio.gov

January 15
**Guardian ad Litem Continuing
Education Course: Psychiatric
Disorders in Children**
Guardians ad Litem, Columbus
1 p.m. to 4:30 p.m.

January 16
**Guardian ad Litem Continuing
Education Course: Psychiatric
Disorders in Children**
Guardians ad Litem, Columbus
8:30 a.m. to noon

January 29
**Guardian ad Litem
Pre Service Course (1 of 9)**
Guardians ad Litem, Columbus

February 4
**Guardian ad Litem Continuing
Education Course: Substance Use
& the GAL’s Role**
Guardians ad Litem, Dayton
1 p.m. to 4:30 p.m.

February 5
**Guardian ad Litem Continuing
Education Course: Substance Use
& the GAL’s Role**
Guardians ad Litem, Dayton
8:30 a.m. to Noon

Dispute Resolution Training

sc.ohio.gov/JCS/disputeResolution

January 7 & 8
**Basic Mediation/Uniform
Mediation Act for Interpreter
Certification**
Toledo

January 9 & 10
**Domestic Abuse Issues: Training for
Mediators & Other Professionals**
Toledo

Supreme Court of Ohio

www.sc.ohio.gov

January 7 & 8
Oral Arguments

January 15
**Deadline: Late Application to
Register as a Candidate for the July
2014 Bar Exam**

**Mayor’s Court Quarter Report
Submission Deadline for
4th Quarter, 2013**

January 20
Martin Luther King Jr. Holiday
Court Offices Closed

January 31
**Deadline: CLE Transcript Filing for
A-L Attorneys and Judges**