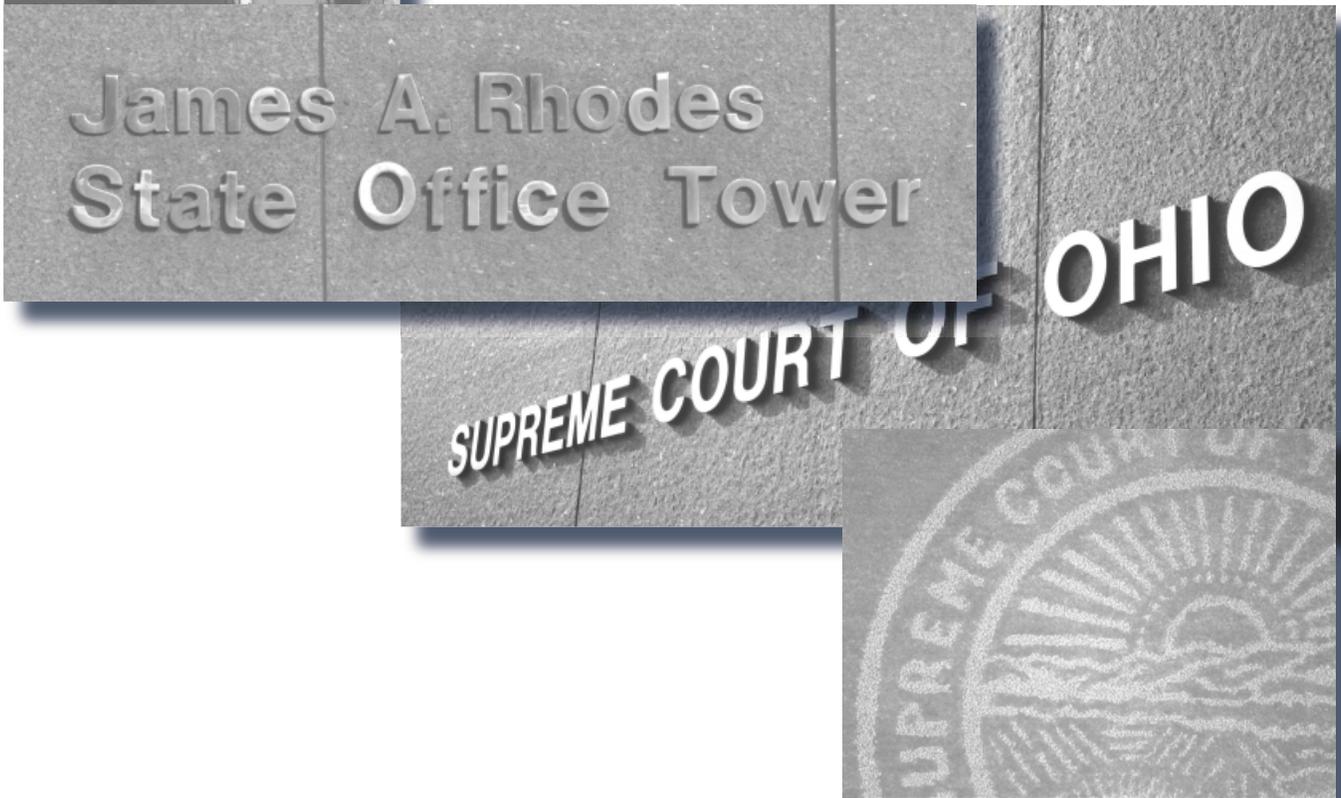


THE SUPREME COURT OF OHIO



Annual Report
2003



THE SUPREME COURT OF OHIO

Annual Report 2003

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
May- December

Alice Robie Resnick
Francis E. Sweeney Sr.
Paul E. Pfeifer
Deborah L. Cook
Evelyn Lundberg Stratton
Maureen O'Connor
Justices
January - May

Steven C. Hollon
Administrative Director



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of Ohio
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THE SUPREME COURT OF OHIO

May 2003



Maureen O'Connor Paul E. Pfeifer Evelyn Lundberg Stratton Terrence O'Donnell

Alice Robie Resnick

Thomas J. Moyer
Chief Justice

Francis E. Sweeney

January 2003



Evelyn Lundberg Stratton Paul E. Pfeifer Deborah L. Cook Maureen O'Connor

Alice Robie Resnick

Thomas J. Moyer
Chief Justice

Francis E. Sweeney

The Supreme Court of Ohio

65 SOUTH FRONT STREET, COLUMBUS, OH 43215-3431

CHIEF JUSTICE
THOMAS J. MOYER

CHIEF JUSTICE
THOMAS J. MOYER

JUSTICES
ALICE ROBIE RESNICK
FRANCIS E. SWEENEY
PAUL E. PFEIFER
EVELYN LUNDBERG STRATTON
MAUREEN O'CONNOR
TERRENCE O'DONNELL

TELEPHONE 614.387.9000
TOLL FREE 800.826.9010
FACSIMILE 614.387.9019
www.sconet.state.oh.us

Dear Fellow Ohioans:

2003 was a year of anticipation and planning for the Supreme Court of Ohio, as the justices and the administrative staff continued the important daily work of the Court, while preparing for the move to the Ohio Judicial Center at the start of 2004.

Among the highlights:

- A total of 2,237 cases were filed with the Court. And final dispositions increased 4 percent from 2002, with a total of 2,205 cases closed.
- The Court released 337 merit decisions with opinions.
- The Clients' Security Fund reviewed 131 claims and awarded more than \$1 million to 104 victims of attorney theft.
- The Supreme Court Office of Information Technology and the Judicial & Court Services Division implemented a statutorily required system for tracking the activities of Ohio mayors' courts.

These accomplishments and others were achieved simultaneously with the restoration of what is now the Ohio Judicial Center. Preparation and execution of the move to the new home of the court required thousands of hours of work by the administrative staff.

In 2003, the Court bid farewell to Justice Andrew Douglas, who retired, and Justice Deborah Cook, who was appointed to the Sixth Circuit Court of Appeals. The Court also welcomed their replacements, Justices Maureen O'Connor and Terrence O'Donnell. Also during the year former Justice Asher Sweeney passed away at 83.

I hope you find this Annual Report of the Supreme Court of Ohio to be of use, and I thank you for your interest in the activities of the Court.

Sincerely,



Thomas J. Moyer
Chief Justice

THE SUPREME COURT OF OHIO

THOMAS J. MOYER

Chief Justice

Thomas J. Moyer has served as Ohio's chief justice since 1987.

Chief Justice Moyer has taken the lead in shaping initiatives in several areas of judicial administration, including alternative dispute resolution, judicial campaign contribution limits and professional conduct by judges and attorneys. As chief justice, he also chairs the Ohio Criminal Sentencing Commission, which produced changes in juvenile and felony laws and recommended changes in misdemeanor and traffic laws.



Prior to his election as chief justice, he served eight years as a judge on the 10th District Court of Appeals in Franklin County, four years as executive assistant to the governor and eight years in private practice.

Chief Justice Moyer lives with his wife, Mary, in Columbus.

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 re-elected 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. Since 1998, Justice Resnick has also chaired the Ohio Women's Legal Assistance and Education Coalition, which seeks to assist and inform women in Ohio regarding their legal rights.



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.

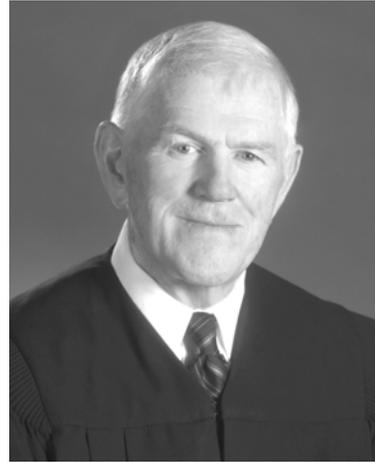
Justice

Francis E. Sweeney Sr. joined the Court in 1992 and currently is serving his second term as a Supreme Court justice.

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

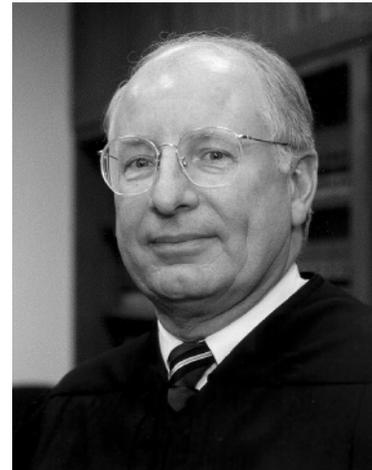
Justice

Paul E. Pfeifer was elected to the Court in 1992 and currently is serving his second 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 prosecuting attorney for three years and as an assistant 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 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 Columbus.



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 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

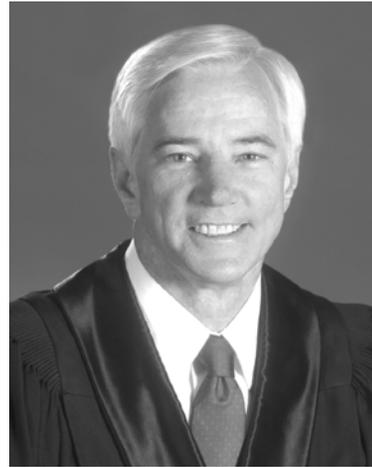
Justice

Justice Terrence O'Donnell became a member of the Supreme Court of Ohio in May 2003 as its 149th justice, returning to where he began his legal career in 1971 as a law clerk for then-Justice J.J.P. Corrigan.

Justice O'Donnell has served as a member of the state judiciary since 1980, having served almost 14 years as a judge on the Cuyahoga County Common Pleas Court until 1994, when he was elected to the court of appeals, where he served 8 years until his term expired in 2003.

Justice O'Donnell has held appointments to the Supreme Court Commission on Professionalism and the Supreme Court Statistical Reporting Committee, and has served as chairman of the Ohio Legal Rights Service Commission.

Justice O'Donnell resides in Rocky River with his wife, Mary Beth, a registered nurse. They have four adult children, Terrence, Michael, Colleen and Nora.



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 230 employees and a \$100 million budget.

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 has also served on the Supreme Court's 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.

DIVISIONS

ADMINISTRATIVE DIRECTOR'S DIVISION

Steven C. Hollon, Administrative Director

Office of the Administrative Director

Steven C. Hollon, Director

Office of Policy & Programs

Richard A. Dove, Director

Office of Public Information

Chris Davey, Director

OFFICE OF THE ADMINISTRATIVE DIRECTOR

The principal administrative office at the Supreme Court of Ohio, 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 functions and provides assistance 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 230 employees and a \$100 million annual budget for the Court and the judicial system of the state. To that end, the administrative director presented testimony to a House subcommittee and a Senate committee on the Judiciary/

Supreme Court budget for the 2004/2005 fiscal biennium.

In 2003, the Administrative Director's Office worked to welcome two new justices to the Court. Justice Maureen O'Connor, elected in November 2002, became the first new justice to join the Court in seven years when she arrived Jan. 1. In May, Justice Terrence O'Donnell was appointed to the Court by Governor Taft to fill the unexpired term of Justice Deborah L. Cook who left to join the U.S. Court of Appeals for the Sixth Circuit. The administrative director assisted the justices with recruiting their staffs and was actively involved in the establishment of the justices' offices and those of their staffs.

Other critical staff hires include a new director of the Law Library and a new director of the Office of Public Information.

Much of the focus in 2003 was on the ongoing renovation and restoration of the Court's new home at 65 South Front Street in Columbus. The administrative director worked with the Attorney General's Office to transfer ownership of the building from the Department of Administrative Services to the Court, and also began examining the establishment of standards for use of the public spaces,

both internally and externally at the building.

A major accomplishment for the Office of the Administrative Director in 2003 was the Court's adoption in June of 50 administrative policies relating to employment at the Court, the expenditure of public monies and the use of Court facilities, equipment and supplies. The administrative director also sought and won Court approval for a salary adjustment for staff.

In December, Hollon was nominated to a term on the Board of Directors of the Conference of State Court Administrators. The nomination will be considered for approval at the organization's July 2004 meeting.

OFFICE OF POLICY & PROGRAMS

The Office of Policy & Programs is responsible for assisting the Court and the Office of the Administrative Director to develop and execute a vision for the Supreme Court of Ohio. In 2003, the office continued coordinating governmental relations on behalf of the Court; planned, coordinated, and executed *Judicial Impartiality: The Next Steps*, a forum on March 6, and all associated follow-up activities; and provided staff assistance to the Rules Advisory Committee and the Task Force on Jury Service.

The office monitored several legislative activities, most notably the biennial budget bill, new judgeship legislation and legislation related to the unauthorized practice of law. Staff testified before legislative committees, worked with judicial and attorney organizations

on selected items of legislation and responded to numerous informational inquiries from legislators and legislative staff.

TRAFFIC RULES REVIEW COMMISSION

Richard A. Dove, secretary

William Dawson
Hon. Francis X. Gorman
John Guldin
Hon. Frederick Hany II, chair
Paul M. Herbert
Cleve Johnson
Hon. Mary E. Kilbane
Karyn R. McConnell
Col. Kenneth L. Morckel
Hon. Connie S. Price
Hon. Richard M. Rogers
Colleen H. Taylor
Hon. Mark W. Wall

RULES ADVISORY COMMITTEE

Richard A. Dove, secretary

Susan J. Becker
Hon. James Brogan
Hon. Phil Campbell
Anthony R. Cicero
Lawrence Elleman
Kathleen E. Graham
Hon. Thomas J. Grady
Charles G. Hallinan
Hon. David Lewandowski
Joyce B. Link
Hon. Thomas R. Lipps
Gary Nasal
Hon. Jack R. Puffenberger
Hon. Michael J. Sage
Hon. Joseph Schmenk
David I. Shroyer
Nancy Schuster
Anne M. Valentine
David J. Young, *chair*



TASK FORCE ON JURY SERVICE

Richard A. Dove and Jo Ellen Cline,
staff liaisons

Honorable 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



OFFICE OF PUBLIC INFORMATION

The Office of Public Information is the Court's central communications office, coordinating the efforts of the Court to communicate with the public. The office fulfills this mission by researching and writing previews of upcoming cases for oral argument, summaries of merit opinions and general news releases about the Court's programs and activities.

2003 was a year of great change for the office, as director Jay Wuebbold moved to another role in the Court, overseeing the efforts to build an education center at the Ohio Judicial Center and instituting a program for tours of the facility. The Court hired veteran public communicator Chris Davey to lead the office, and he started in August.

Under the leadership of the new director, the Office of Public Information coordinated a plan for communicating the move to the Ohio Judicial Center to all of the Court's constituencies; began the process of revising the Court's publications by developing an innovative partnership with the Ohio State University's Department of Industrial, Interior, and Visual Communication Design; conducted a comprehensive audit of the Court's Web site and wrote a plan for its revision; assumed responsibility for the Court's constituent relations function and wrote administrative operating procedures for this function; and standardized many of the office administrative functions, including the institution of procedures for tracking media inquiries and phone calls to the office.

In the area of personnel, besides the new director, the office hired a new Web editor and a receptionist.

During 2003, the Office of Public Information issued 274 case announcements, 39 general news releases,

166 previews of upcoming cases, 79 merit opinion summaries, 72 notices of hearings before the Board of Commissioners on Grievances & Discipline and processed more than 500 media inquiries. The Web editor performed routine maintenance on hundreds of Court Web pages and major overhauls to eight sections of the site.

RULE CHANGES

The following are highlights of rule changes that were either announced for public comment or implemented in 2003.

The Court announced for public comment rules that would affect judicial campaign finances and campaign-related complaints. The proposed rule amendments to the Code of Judicial Conduct and to the Rules for the Government of the Judiciary would:

- Allow judicial candidates to contribute personal funds to their campaign committee prior to the official fund-raising period.
- Clarify the procedure for addressing campaign-related complaints against Supreme Court candidates. The amendments clarify the procedure for prosecuting such complaints and the role of the chief justice of the Court of Appeals in addressing complaints.
- Preclude the participation of an appellate judge in more than one panel designed to hear such a complaint and detail what should be done in the event that the original complainant withdraws or refuses to prosecute the complaint.
- Specify that judicial candidates who are not sitting judges must use the word "elect" or "vote" prior to their name and include the word "for" in between the term "judge" and the candidate's name.

The Court enacted changes to the campaign finance contribution limits for candidates running for judge in Ohio. The limits took effect on Nov. 3 and apply to the judicial races on the ballot in 2004; the changes were to Canon 7 of the Ohio Code of Judicial Conduct. (The complete revised rules are at: www.sconet.state.oh.us/Rules/conduct/#canon7).

Among the changes are provisions that:

- Decrease the amount that political parties may contribute to the campaign of candidates running for chief justice from \$134,100 to \$125,000 in the primary election and from \$268,200 to \$250,000 in the general election. Candidates for chief justice now have the same contribution limits as candidates for associate justice.
- Increase the amount that individuals may give to candidates for courts of appeals from \$550 to \$750 in the primary and general elections.
- Increase the amount that organizations may give to candidates for courts of appeals from \$2,750 to \$3,000 in the primary and the general election.
- Increase the amount that individuals may give to candidates for courts of common pleas, county courts and municipal courts in jurisdictions with populations greater than 750,000 from \$275 to \$350.
- Consolidate the campaign finance limits for candidates for courts of common pleas, county courts and municipal courts with populations under 750,000, so they all have the same contribution limits.

The Court adopted rule amendments affecting the Supreme Court attorney registration fund, which finances the attorney discipline system:

- Individual contributions of Ohio attorneys to the fund are increased by 10 percent. The court will collect \$275 from every attorney who registers for active status for the 2003-2005 biennium, which began Sept. 1.

Also adopted were amendments to disciplinary rules that allow lawyers to negotiate and transact the sale of a complete law practice, including the selling of an attorney's goodwill and "book" of current legal business. The new rules set strict procedures the seller and buyer attorneys must follow to protect the interests of clients. The new disciplinary rule (DR 2-111)

and conforming changes to other rules were adopted primarily to cover situations in which a lawyer with an established practice dies, becomes disabled, retires, or leaves private practice to accept a judgeship or other public office.

Key provisions of the rule amendments effective Feb. 1 include the following:

- Lawyers and firms are permitted to advertise the availability of their practice for sale in mass print and broadcast media, in trade and professional journals and by direct letter to potential buyers.
- A prospective buyer of a law practice must sign a written confidentiality agreement before a seller may disclose information about current clients and the legal work performed for them. The confidentiality agreement remains binding on the prospective buyer whether or not a purchase is completed.
- Attorneys transacting the sale/purchase of a legal practice are exempted from prohibitions in the Code of Professional Responsibility regarding “fee sharing.”
- Buyers and sellers of a law practice are permitted to enter into “no compete” agreements that limit the seller’s ability to re-enter practice in the same geographic area or within a stated time period. Exceptions are provided where the selling lawyer is leaving the practice of law for government or academic service.
- Buyers are required to state that they are acting with the intention of providing legal services to clients, not acting as a brokers.

**REPORT ON THE RECOMMENDATIONS
OF THE COMMISSION ON RACIAL FAIRNESS and
ACTION PLAN OF THE
RACIAL FAIRNESS IMPLEMENTATION TASK FORCE**

In 2003, the Supreme Court made continued progress in implementing the recommendations of the Ohio Commission on Racial Fairness and the Racial Fairness Implementation Task Force, especially in the areas of perceptions of racial unfairness, interpreter services and legal education.

In 1994 the Supreme Court of Ohio and the Ohio State Bar Association jointly commissioned the Ohio Commission on Racial Fairness, and charged it with exploring the perception and reality of racial fairness and bias in the state judicial system. The commission issued a report in 1999, containing 67 recommendations grouped into six categories. The Racial Fairness Implementation Task Force, was created in 2000 to determine how best to implement the recommendations of the commission.

To address the issue of the perception of judges and attorneys, the court began collecting data regarding the racial and ethnic status of those admitted to the Ohio bar by allowing lawyers the option of checking a racial category on a form used in the attorney registration process. Chief Justice Thomas J. Moyer has reported that 90 percent of the state's 40,000 lawyers have complied.

In the area of interpreter services, the court joined the Consortium for State Court Interpreter Certification, administered by the National Center for State Courts. The consortium, of which Ohio is the 30th state to join, maintains a registry of approved interpreters and has adopted a code of professional conduct for interpreters. The court also created an Interpreter Services Program in the Office of Judicial and Court Services, and hired Bruno Romero as the court's first Interpreter Services Program manager. Romero will initiate the program by conducting a survey of Ohio judges regarding the needs for interpreter services in various Ohio courts.

The court is engaged in ongoing activity in each of the six categories of recommendations from the commission and task force:

Judges' and Attorneys' Perceptions. The court is working in three areas: promoting the establishment and continuation of relationships between local bar associations and minority attorneys, establishing mandatory diversity training as part of an attorney's continuing legal education requirement and tracking the need for foreign language interpreter services in the courts.

Employment and Appointment Practices. The court is involved in three areas: promoting a standardized equal opportunity employment statement for adoption by courts statewide, maintaining the Court's commitment to promoting diversity in its appointments to boards and commissions, and recommending the development of a diversity curriculum for use in Ohio Judicial College courses.

Jury Issues. The court referred the recommendations regarding jury issues to the Supreme Court Task Force on Jury Service, which was established by Chief Justice Moyer in 2002. The task force issued its report in February 2004.

Criminal Justice and Sentencing. The court is considering on-going action in several areas related to criminal justice and sentencing, including developing continuing legal education requirements and courses dealing with bias; developing forms and data collection tools on pre-trial bond decisions, sentencing and other aspects of the criminal justice system; and the issuance of an annual report from the court.

Law Schools. Ohio law schools are independent institutions over which the Court has no regulatory authority. However, the court convenes the annual Bench-Bar-Deans Conference, and a regular topic of discussion at the conference is the promotion of diversity in all aspects of the legal profession.

Interpreter Services. Future tasks of the Interpreter Services Program will include development of an implementation plan for addressing the needs identified in the surveys conducted by the Interpreter Services Program manager and determining the manner in which consortium resources can be made available to the judiciary.



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

OFFICE OF THE CLERK

The Office of the Clerk manages all cases filed with the Supreme Court. The office 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, and phone and office consultations; by publishing answers to frequently asked questions; by providing helpful Web site information; and by making seminar presentations.

In 2003, the Office of the Clerk handled the processing of 2,237 new cases filed with the Court and the disposition of 2,205 cases. (See Tables I through VI at the close of this section for 2003 Supreme Court case statistics.)

In 2003, the office finalized the development of software for the first phase of a new computerized case management system. The system was designed to replace an obsolete system used by the court since 1985. The office also worked with the Office of Information Technology on developing a new computer program for tracking affidavits of disqualification. In addition, the office enhanced the Clerk's Web pages to add more helpful information for attorneys and litigants, including information and documents on affidavits of disqualification, applications for attorney fees and time lines for appeals.

Office staff engaged in an extensive review of the Supreme Court Rules of Practice and recommended comprehensive rule amendments to the Court. The Court published the proposed amendments for a 30-day public comment period in November.

In 2003, the Office of the Clerk managed the annual continuing legal education enforcement proceedings in record time. The Commission on Continuing Legal Education instituted these proceedings against 464 attorney-respondents on Sept. 12, alleging noncompliance with CLE requirements during the 2001-2002 reporting period. By Dec. 31, the Clerk's Office had processed all 464 matters, submitted them to the court and issued dispositive orders for all but two of the respondents named by the commission.

To facilitate access to public files, staff completed a review and reorganization of old attorney discipline case files. To

prepare general court records for the move to new facilities at 65 South Front Street, office staff inventoried, purged, repackaged and shipped to an off-site storage facility case files and lower court records as appropriate.

OFFICE OF BAR ADMISSIONS

The Office of Bar Admissions supports the Supreme Court in its constitutional role of regulating admission to the practice of law in Ohio. In this role, 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 admission ceremonies during which successful applicants take the oath of office.

Other responsibilities include issuing miscellaneous certificates relating to bar admission, including legal intern certificates for law students working in clinical programs and certificates for foreign legal consultants, and providing staff support to the Board of Bar Examiners and the Board of Commissioners on Character and Fitness.

In 2003, the Office of Bar Admissions processed more than 3,700 applications, including 1,535 law student registrations, 2,110 bar exam applications and 81 applications for admission without examination. The office administered the bar exam to 1,927 applicants – 551 in February and 1,376 in July. Office staff coordinated two bar admission ceremonies – on May 9 and Nov. 10 – for applicants who passed the exams and

satisfied the Court's other requirements for admission.

Bar Admissions staff expeditiously dealt with an outside scoring error on the February Multistate Bar Examination, a national component of the exam. With the bar admission ceremony just days away, staff worked quickly to obtain corrected scores from the national testing agency responsible for the mistake so the ceremony could proceed as scheduled.

The office sought and won certification of the Ohio bar exam under a special program available through the GI Bill, which enables veterans who take the exam to obtain reimbursement of their exam fees.

Bar Admissions staff developed two PowerPoint presentations and traveled to law schools throughout the state to educate law students on the bar admissions process. A program geared toward second-year law students focused on the character and fitness review of candidates for admission, while a program for third-year law students covered the bar exam.

Twice in 2003 the office held calibration sessions for the Board of Bar Examiners and the attorney-readers who assist the board in grading the exam. In conjunction with one of the sessions, the office arranged a special educational program conducted by Dr. Susan Case, the director of testing for the National Conference of Bar Examiners, to examine psychometric principles.

Marcia Mengel was appointed to and served as a member of the Joint Working Group, an ad hoc organization representing the Conference of Chief

Justices, the National Conference of Bar Examiners, the American Bar Association and the Association of American Law Schools. The group met to plan a seminar and engage in other activities to improve working relationships among law

schools, graduating law students and bar admission authorities in the United States. Mengel also began her second year as a trustee on the board of the National Conference of Bar Examiners.

BOARD OF BAR EXAMINERS

Marcia J. Mengel, secretary

Mark S. Barnes
Michael M. Briley
Robert R. Byard
Lisa Weekley Coulter
Jennifer E. Day
Brian N. Eisen
Elizabeth Harvey
Julie A. Jones
Samuel Z. Kaplan
Hon. R. Scott Krichbaum
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Leon M. Plevin
Lynn Reynolds
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Thomas J. Scanlon
Kenneth F. Seibel
John W. Waddy Jr.
Hon. Mark K. Wiest

BOARD OF COMMISSIONERS ON CHARACTER AND FITNESS

Marcia J. Mengel, secretary

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Hon. Nancy D. Hammond
Hon. William H. Harsha III
Hon. Sara Lioi, *chair*
Scott McBride
Michael B. Michelson
Alvarene N. Owens
D. Michael Reny
Suzanne K. Richards
Hon. David Tobin
Ross A. Wright



CASE STATISTICS SUMMARY

In 2003, there was a negligible decrease in new case filings from 2002, from 2,249 to 2,237.

The Court saw a 4 percent increase in final case dispositions over 2002, from 2,205 to 2,118. There were fewer cases pending at the end of 2003 than at the end of 2002: 681 versus 777.

For a more complete examination of 2003 case statistics, please refer to Tables I through VI on pages 17 through 22.

THE SUPREME COURT OF OHIO 2003

I. CASES FILED

Jurisdictional Appeals

Claimed Appeal of Right	20
Discretionary Appeal (Non-felony)	1006
Discretionary Appeal (Felony)	541
Death Penalty Postconviction Appeal	13
Appeal Involving Termination of Parental Rights/Adoption	21
Appeal from App. R. 26(B) Application (Murnahan Appeal)	<u>85</u>
Total	1,686

Merit Cases

Original Action	116
Habeas Corpus Case	42
Direct Appeal (Case Originating in Court of Appeals)	118
Direct Appeal Involving Termination of Parental Rights/Adoption	2
Certified Conflict	73
Certified Conflict Involving Termination of Parental Rights/Adoption	1
Appeal from Board of Tax Appeals	47
Appeal from Public Utilities Commission	10
Appeal from Power Siting Board	0
Death Penalty Case ¹	15
Certified Question of State Law	5
Appeal from App. R. 26(B) Application in Death Penalty Case	4
Appeal of Election Contest under R.C. 3515.15	0
Appeal under R.C. 4121.25	<u>0</u>
Total	433

Practice of Law Cases²

Disciplinary Case	108
Bar Admissions Case	6
Other Practice of Law Case	<u>4</u>
Total	118

Total Number of Cases Filed **2,237**

¹Included in this category are 12 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 three cases involving appeals from the court of appeals for offenses committed prior to Jan. 1, 1995.

²See Table II for a breakdown of cases relating to the practice of law filed in 2003.

THE SUPREME COURT OF OHIO 2003

II. CASES RELATED TO THE PRACTICE OF LAW DETAIL OF CASES FILED

Disciplinary Cases

Case on Report of Board	50
Consent to Discipline Matter	8
Case under Gov. Bar R. V, Sec. 7/Mental Illness	0
Case upon Felony Conviction	11
Case upon Default of Child Support Order	3
Case on Motion for Interim Remedial Suspension	1
Miscellaneous Disciplinary Matter	4
Attorney Resignation Matter	23
Reciprocal Discipline Case	6
Judge Disciplinary Case under Gov. Bar R. V	1
Judge Disciplinary Case under Gov. Jud. R. III	0
Judge Disciplinary Case under Gov. Jud. R. II, Sec. 5	<u>1</u>
Total	108

Bar Admissions Cases

Bar Admissions/Character and Fitness Case	6
Miscellaneous Bar Admissions Matter	<u>0</u>
Total	6

Other Practice of Law Cases

Unauthorized Practice of Law Case/On Report of Board Matter Relating to Practice of Law	2
	<u>2</u>
Total	4

III. JURISDICTIONAL APPEALS ACCEPTED FOR REVIEW

Claimed Appeal of Right	2
Discretionary Appeal (Non-felony) ¹	182
Discretionary Appeal (Felony) ¹	44
Appeal from App. R. 26(B) Application (Murnahan Appeal)	0
Appeal Involving Termination of Parental Rights/Adoption	<u>01</u>
Total Number of Appeals Accepted for Review	229

¹Includes cases involving both discretionary appeals and claimed appeals of right.

THE SUPREME COURT OF OHIO 2003

IV. FINAL DISPOSITIONS

Jurisdictional Appeals (Jurisdiction Declined, Leave to Appeal Denied and/or Appeal Dismissed)

Claimed Appeal of Right	19
Discretionary Appeal (Non-felony) ¹	891
Discretionary Appeal (Felony) ¹	426
Death Penalty Postconviction Appeal	18
Appeal Involving Termination of Parental Rights/Adoption	20
Appeal from App. R. 26(B) Application (Murnahan Appeal)	<u>86</u>
TOTAL	1,460

Merit Cases

Original Action	118
Habeas Corpus Case	40
Direct Appeal (Case Originating in Court of Appeals)	127
Direct Appeal Involving Termination of Parental Rights/Adoption	2
Certified Conflict	87
Appeal from Board of Tax Appeals	37
Appeal from Public Utilities Commission	7
Death Penalty Case ²	7
Jurisdictional Appeal Accepted for Review	195
Certified Question of State Law	3
Appeal from App. R. 26(B) Application in Death Penalty Case	<u>5</u>
TOTAL	628

Practice of law Cases³

Disciplinary Case	108
Bar Admissions Case	2
Other Practice of Law Case	<u>7</u>
TOTAL	117

Total Number of Final Dispositions **2,205**

¹Includes cases involving both discretionary appeals and claimed appeals of right.

²Included in this category are three 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 offenses committed prior to Jan. 1, 1995.

³See Table 5 for the types of final dispositions entered in cases relating to the practice of law.

THE SUPREME COURT OF OHIO 2003

V. CASES RELATED TO THE PRACTICE OF LAW
DETAIL OF FINAL DISPOSITIONS

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

Public reprimand	5
Definite suspension	23
Indefinite suspension	16
Disbarment	9
Case remanded	<u>2</u>
Total	55

Disciplinary Case Involving Mental Illness [Gov. Bar R. V, Sec. 7]

Suspension	1
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Disciplinary Case/Felony Conviction [Gov. Bar R. V, Sec. 5]

Interim suspension	11
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Disciplinary Case/Default Of Child Support Order [Gov. Bar R. V, Sec. 5]

Interim suspension	3
--------------------	---

Disciplinary Case/Consent To Discipline Matter

[Gov. Bar R. V, Sec. 11(A)(3)(c); BCGD Proc. Reg. Sec. 11]

Attorney publicly reprimanded	3
Attorney suspended for a term	<u>3</u>
Total	6

Miscellaneous Disciplinary Matter

Respondent held in contempt	1
Relief granted	1
Relief denied	<u>2</u>
Total	4

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

Resignation accepted	2
Resignation accepted - disciplinary action pending	<u>15</u>
Total	17

THE SUPREME COURT OF OHIO 2003

CASES RELATED TO THE PRACTICE OF LAW
DETAIL OF FINAL DISPOSITIONS - continued

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

Definite suspension	3
Indefinite suspension	3
Disbarment	<u>1</u>
Total	7

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

Public reprimand	1
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Judge Disciplinary Case Involving Campaign Conduct
[Gov. Jud. R. II, Sec. 5]

Grievance withdrawn by commission	1
Judicial canon violation found; fine imposed and fine suspended	1
Public reprimand; ordered to pay attorney fees and costs	<u>1</u>
Total	3

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

Applicant disapproved, may reapply	2
------------------------------------	----------

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

Respondent enjoined from actions constituting the unauthorized practice of law	5
---	----------

Matter Relating To Practice Of Law

Case dismissed by movant	1
Relief denied	<u>1</u>
Total	2

THE SUPREME COURT OF OHIO 2003

VI. CASES PENDING AS OF JANUARY 1, 2004

Jurisdictional Appeals and Merit Cases

Jurisdictional Appeal	300
Jurisdictional Appeal Accepted for Review	112
Original Action	23
Habeas Corpus Case	5
Direct Appeal (Case Originating in Court of Appeals)	67
Certified Conflict	39
Certified Conflict Involving Termination of Parental Rights/Adoption	1
Appeal from Board of Tax Appeals	42
Appeal from Public Utilities Commission	11
Certified Question of State Law	2
Death Penalty Case ¹	34
Appeal from App. R. 26(B) Application in Death Penalty Case	<u>3</u>
Total	639

Disciplinary Cases

Case on Report of Board	22
Consent to Discipline Matter	5
Case on Motion for Interim Remedial Suspension	1
Case upon Felony Conviction	1
Attorney Resignation Matter	7
Reciprocal Discipline Case	<u>1</u>
TOTAL	37

Bar Admissions Cases

Bar Admissions/Character and Fitness Case	5
---	---

Total Number of Cases Pending **681**

¹Included in this category are 29 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 five cases involve appeals from the court of appeals for offenses committed prior to Jan. 1, 1995.

LEGAL & RESEARCH SUPPORT DIVISION

Keith Bartlett, Director

Office of Legal & Research Support

Keith Bartlett, Director

Office of the Reporter

Walter A. Kobalka,
Reporter of Decisions

Office of the Master Commissioners

James R. Miles,
Senior Master Commissioner

Law Library

Kenneth Kozlowski, Director

Mediation Section

Bill Zapp, Mediation Attorney

OFFICE OF LEGAL & RESEARCH SUPPORT

The Office of Legal & Research Support is the lead office of the division and responsible for coordinating the activities of the numerous offices and sections. It also assists Court staff by providing legal opinions on various topics as requested.

Keith Bartlett, the Court's former assistant administrative director, served as the director of the office until his departure in September to become the court administrator for the Franklin County Municipal Court.

OFFICE OF THE REPORTER

After 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 – the Supreme Court's 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 Court of Claims and selected trial courts to the Court's Web site. Supreme Court opinions going back to 1992 can be found at www.sconet.state.oh.us/ROD/documents 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 2003, the office posted 337 Supreme Court opinions and 261 case announcements, 5,868 court of appeals, 748 Court of Claims and 39 trial court opinions to the Web site. The Supreme Court's database of opinions contains literally thousands of opinions that are easily searchable and accessible to the public at no charge.

ADVISORY COMMITTEE ON REPORTING OF OPINIONS

Keith Bartlett, staff liaison

Linden J. Beck
Hon. Peggy Bryant
Howard N. Fenton III
Richard A. Frye, *chair*
Walter S. Kobalka
Joel Mirman
Hon. John P. Petzold
Hon. Jon R. Spahr
Hon. Mark W. Wall

OFFICE OF THE MASTER COMMISSIONERS

The Office of Master Commissioners consists of ten master commissioners, an administrative assistant and a legal secretary. Master commissioners are experienced attorneys who advise the justices of the Court on specific areas of law that arise in cases for which the court's jurisdiction is mandatory: death penalty appeals; public utility appeals; appeals involving state taxation issues and workers compensation law; extraordinary writs; and attorney licensing and disciplinary cases.

In 2003, the office operated under the guidance of James R. Miles, appointed senior master commissioner in 2002. Miles, who joined the Court in 1989, has more than 40 years of experience as a lawyer, having served previously as a prosecutor, defense counsel and a military trial and appellate judge. Because of the nature of their responsibilities to the Court, specific accomplishments of the master commissioners cannot be elaborated. However, the master commissioners

continue to serve as a resource for the Court by researching and advising on various cases, and preparing draft opinions for the Court's consideration. In the areas of their responsibility, Master Commissioners continue to assist the Court in carrying out its crucial responsibilities to the citizens of Ohio.

LAW LIBRARY

February 2003 saw the hiring of a new Law Library director, Ken Kozlowski. Kozlowski came to the court after working for almost six years as the Associate Director for Public Services at the University of Dayton School of Law's Zimmerman Law Library and for five years before that as the Public Services Librarian at the Cleveland Law Library Association.

It was a year of preparation in the Law Library, as its more than 250,000 volumes, and thousands of microfiche and rolls of microfilm, were scheduled to be moved to the Court's new facility in February 2004. A massive weeding project was undertaken to minimize the amount of materials to be moved during the transition.

The library also added some online databases – most notably, LexisNexis – for use by Court staff and the general public. LexisNexis allows users to search vast amounts of legal and news-related materials from their desktops, or – for public patrons of the Library – from one of the many workstations located among the stacks.

Technical services staff cataloged more than 1,300 items, conducted maintenance

on almost 12,000 records, and either discarded or recycled over 24,000 items. The library welcomed more than 7,700 visitors in 2003 who asked approximately 6,100 questions, borrowed 1,000 books, and made almost 60,000 photocopies.

The Law Library looks forward to an even better 2004 as the new Ohio Judicial Center gives even more patrons the opportunity to use this great resource.

Cataloging

Books	734
Serials	65
Microfiche	219
Microfilm	0
Video	0
Audio	0
CD-ROM	0
DVD	0
Internet	155
Gov Documents	1,275
Record Maintenance	11,591
Discards	24,381

Public Services

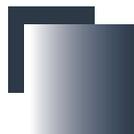
Patrons	7,728
Questions	6,090
Circulation	999
Photocopies	58,966

MEDIATION SECTION

The Mediation Section was established as a discrete office in the Legal & Research Support Division in July 2002. The section mediates selected mandatory appeals and cases from the Court's docket: cases originating in the courts of appeals, mandatory appeals from administrative agencies, original actions and other non-felony cases that the Court deems appropriate. The Court attempts to select cases for mediation that do not raise novel legal questions.

In 2003, the section employed one mediation attorney, Bill Zapp, who received administrative support from the Office of Master Commissioners. Zapp conducted 129 conferences and teleconferences in 87 cases. The section saw a 53 percent success rate, with 46 of the cases reaching settlement.

Underscoring its commitment to expanding case resolution options, the Court in 2003 granted the Mediation Section a budget separate from that of the Office of Master Commissioners, where the program began in 1998.



Fiscal & Management Resources Division

Ronda Perri, Director

Office of Fiscal & Management Resources

Ronda Perri, Director

Office of Human Resources

Sharon Dunn, Director

Office of Information Technology

David K. 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 the operation of the division.

The Fiscal & Management Resources Division strove in 2003 to improve current practices, to provide better services and to support the overall strategic needs of the Court and its various individual offices.

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 Human Resources introduced a training and development program for management and staff and rolled out a Court-wide performance management program to evaluate

performance, provide for recognition and feedback and offer professional development opportunities for staff. The Office of Fiscal Resources implemented policies on purchasing and travel reimbursements and began internal audits of fiscal and payroll records. The Office of Information Technology continued the major project of converting core Supreme Court programs from legacy systems to newer technologies in order to provide a platform to enhance services to the public going forward. The office also put forth remarkable effort preparing for 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 for telephone services.

OFFICE OF FISCAL & MANAGEMENT RESOURCES

The Office of Fiscal & Management Resources is the lead office in the division and is responsible for implementing the Court's budget of more than \$100 million, which includes the salaries of state judges. Responsibilities also include ensuring that 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 analysis of revenues and expenditures; providing internal reporting and external reporting to regulatory bodies as required

and completing an annual inventory of Court assets.

In 2003, the Office of Fiscal & Management Resources made significant strides in implementing administrative policies, improving process flow efficiencies and conducting internal spot audits on fiscal and payroll records.

OFFICE OF HUMAN RESOURCES

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

There were many firsts for the Office of Human Resources in 2003. The office introduced *Leadership Excellence*, a training and development program for management and staff.

The program includes two main components: (1) courses designed to provide general management skills and training to managers at all levels, and (2) courses designed for professional development and skill enhancement open to all Supreme Court staff.

Another first was the development and rollout of *Performance Management*. The goals of the Court-wide program are to provide feedback about an employee's

performance – recognizing positive performance and bringing to the attention of the employee those areas that need improvement – and to provide an opportunity for exploration of professional development interests. The initial rollout of the program was successful, and the office plans to build on this program in the years to come.

The payroll function has made great improvements in efficiency with the consolidation of various payrolls and a notable improvement in the accuracy of paychecks and associated deductions and adjustments.

OFFICE OF INFORMATION TECHNOLOGY

The Office of Information Technology is responsible for the operation of the Court's information technology systems, including the development and maintenance of 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 2003, the Court made significant progress in a number of technology areas. The Office of Information Technology continued its work on converting from an outdated computer system to newer technologies. Various components of this conversion are in the final stages of program deployment; when the conversion is completed in 2004, the Court will be able to provide enhanced services to the public.

The office completed its conversion of the court's continuing legal education

database from Unix-based proprietary systems to its own uniquely developed software and database standards. The Court's library program was also replaced and upgraded as the old system was scheduled for retirement by the vendor in 2004.

The office programmed a system to track mayors' courts statistics and allow those courts to register and submit statistics to the Supreme Court online as required by the Ohio Revised Code effective Jan. 1, 2004.

Preparation for the Court's move to the Ohio Judicial Center involved much of

the office's resources in 2003, with the design and installation of the equipment necessary for operating the Court's network and the wiring necessary for providing telephone service to the new building. The Court used a structure wiring plan, which will reduce costs when changes to the phone system are required.

The office also represented the Judicial Branch in a joint effort with the Executive and Legislative branches to provide fiber optic connectivity as part of the Downtown Fiber Optic Project, connecting the James A. Rhodes State Office Tower, the Ohio Statehouse, the Vern Riffe Center for Government and the Arts and the new Ohio Judicial Center.

BUDGET SUMMARY

The budget statistics on the pages that follow represent the Court's fiscal picture for calendar year 2003 and the surrounding fiscal years.

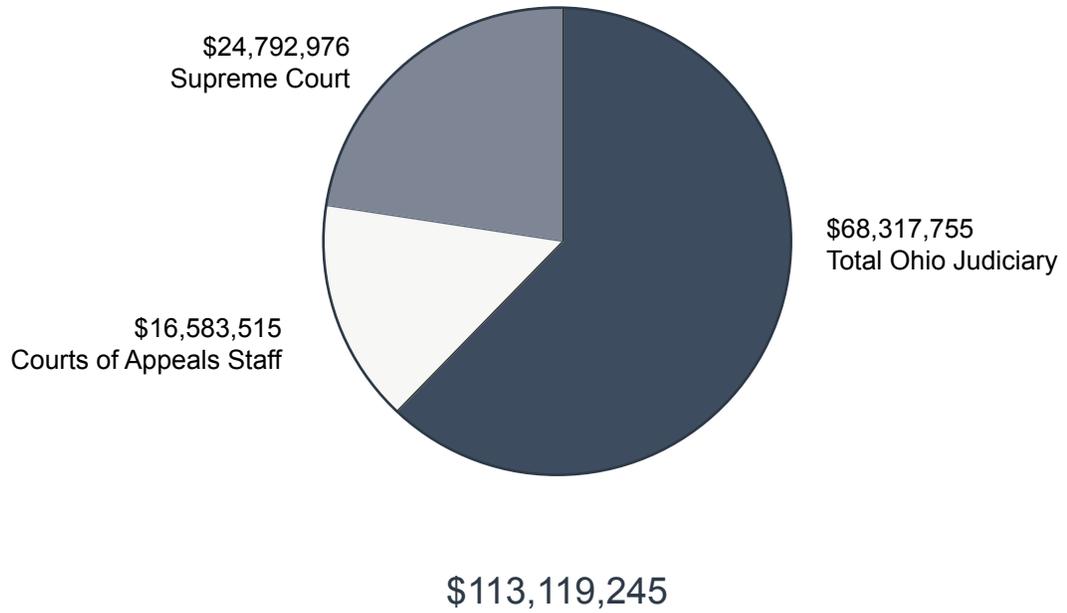
Through sound fiscal management, the Court saved significant funds in 2003 and was able to contribute \$6.8 million to the state's efforts to reduce the budget deficit in fiscal year 2004.

The total budget for the Supreme Court and the Ohio Judiciary for calendar year 2003 was about \$110 million. This represents \$24.8 million for the administrative budget of the Supreme Court, \$16.6 million for courts of appeals staff administrative salaries and \$68.3 million for the state's portion of the salaries of the appeals and lower court judges.

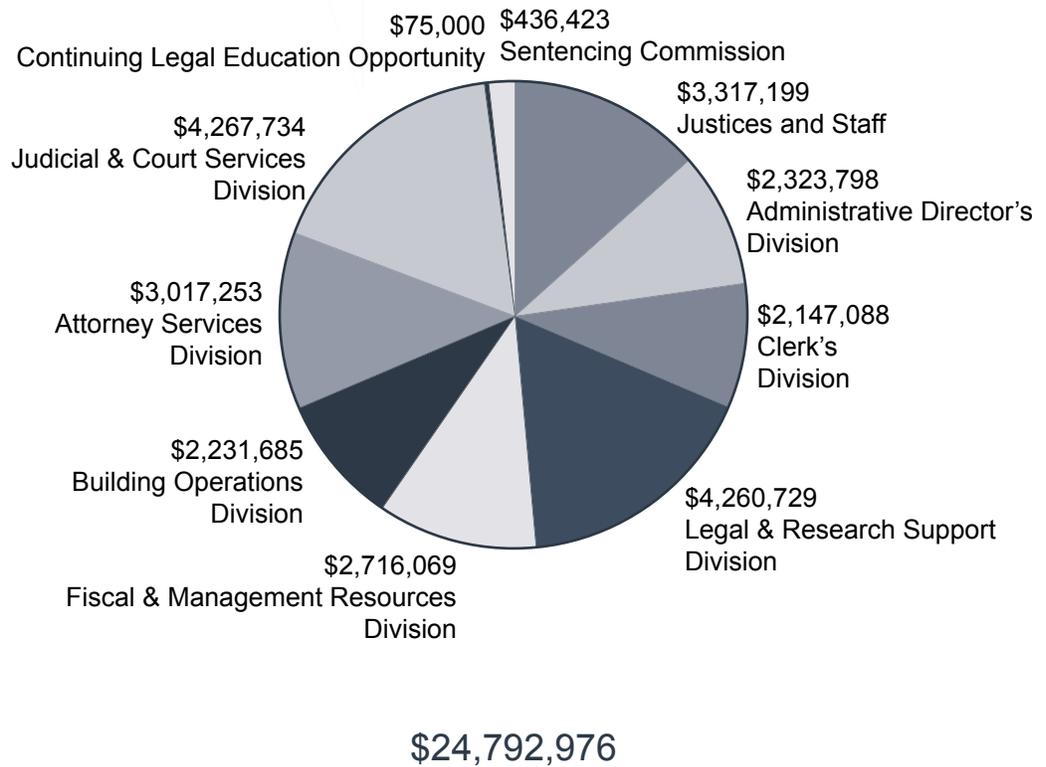
JUDICIARY/SUPREME COURT BUDGET FY 2003 AND FY 2004

	FY 2003 total budgeted	FY 2004 total budgeted	Average for Calendar Year 2003	Percentage of 2003 Budget
Ohio Judiciary				
Courts of Appeals Judges	9,666,921	9,659,450	9,663,186	
Lower Courts	57,685,523	59,626,615	58,654,569	
Total Ohio Judiciary	\$67,349,444	\$69,286,065	\$68,317,755	
Courts of Appeals Staff	\$16,040,983	\$17,126,047	\$16,583,515	
Supreme Court				
Justices and Staff	3,307,023	3,327,374	3,317,199	13.4%
Administrative Director's Division	2,2270,843	2,376,753	2,323,798	9.4%
Clerk's Division	2,145,655	2,148,520	2,147,088	8.7%
Legal & Research Support Division	4,200,152	4,321,305	4,260,729	17.2%
Fiscal & Management Resources Division	2,405,584	3,026,553	2,716,069	11.0%
Building Operations Division	1,135,478	3,327,892	2,231,685	9.0%
Attorney Services Division	2,753,030	3,281,476	3,017,253	12.2%
Judicial & Court Services Division	4,112,967	4,422,500	4,267,734	17.2%
Continuing Legal Education Opportunity	150,000	0	75,000	0.3%
Ohio Criminal Sentencing Commission	433,491	439,355	436,423	1.8%
TOTAL Supreme Court	\$22,914,223	\$26,671,728	\$24,792,976	100%
TOTAL Ohio Judiciary/ Supreme Court	\$106,304,650	\$113,083,840	\$109,694,245	

OHIO JUDICIARY AND SUPREME COURT TOTAL



SUPREME COURT



Building Operations Division

Byron C. Wilson, Director

Office of Building Operations

Byron C. Wilson, Director

Court Security Section

Jim Cappelli, Manager

Maintenance & Grounds Section

Patrick McGuire, Manager

Throughout 2003, the Building Operations Division maintained daily support services to the Supreme Court justices and staff. These services include mail handling, fleet management, records management, office supply purchasing and distribution, conference and meeting administration and other support functions.

In 2003, under guidance from the administrative director, the division moved its telecommunications services to the Fiscal & Management Resources Division to more properly align its support service structure and begin the task of transitioning to an early 2004 occupancy of the Ohio Judicial Center.

Most of 2003 was spent representing the administrative director and the Court during the interior rehabilitation of the Ohio Departments Building into the Ohio Judicial Center. The division closed 2003 with the construction project on schedule and well within budget. The division staff grew substantially to begin the process of managing the Ohio Judicial Center while continuing to provide a high level of direct service to the Supreme

Court in the daily administration of support services.

OFFICE OF BUILDING OPERATIONS

This office primarily provides Court staff with mail services, office supplies, conference accommodations and fleet management. Building Operations staff has maintained nearly seamless services throughout the transition between the Court's period of tenancy within the James A. Rhodes State Office Tower and construction and occupancy of the Ohio Judicial Center.

COURT SECURITY SECTION

This section came into existence in late 2002 with a focus on developing and implementing an initial security plan for the members and staff of the Supreme Court.

Since then, Jim Cappelli, manager of the section, has expanded the scope to include other areas of responsibility, including personal protection services for members of the Court, security consultation for judges within Ohio, and the initiation of a plan to provide coordinated and sound security programs and practices for the courts throughout Ohio.

MAINTENANCE & GROUNDS SECTION

This section was established as the Supreme Court began preparation for the occupancy of the Ohio

Judicial Center, with the primary mission being to properly accept the building infrastructure and grounds from the general contractor and begin operation upon occupancy of the building. During 2003, the section slowly increased

staffing levels as occupancy moved closer. Staff have completed training on the Ohio Judicial Center's electrical, HVAC and grounds infrastructure while preparing for its full operation in 2004.



Attorney Services Division

Richard A. Dove, Director

Office of Attorney Services

Richard A. Dove, Director

Office of Continuing Legal Education

Diane Chesley-Lahm, Director

Attorney Registration Section

Susan B. Christoff, Counsel

The Attorney Services Division assisted in the conversion of three major databases in 2003, seeing the completion of the Continuing Legal Education and Rule 20 database conversions. Work on the Attorney Registration database conversion continues. The conversions represent a substantial upgrade in the usefulness and integrity of these databases and are major steps toward providing online access to CLE and attorney registration records.

The division also provided essential services to attorneys, judges and the public by registering more than 50,000 attorneys for the 2003-2005 biennium, issuing approximately 3,500 certificates of good standing, completing the 2003

CLE enforcement process and revising Supreme Court rules related to the unauthorized practice of law to allow for the imposition of a civil penalty.

The division also assisted with the beginning stages of the first major rewrite of the Code of Professional Responsibility in more than 30 years with the appointment by Chief Justice Moyer of the Task Force on Rules of Professional Conduct.

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 Commission on Professionalism, the Board of Commissioners on the Unauthorized Practice of Law, Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases (Rule 20 Committee) and the Task Force on Rules of Professional Conduct.

**BOARD OF COMMISSIONERS ON THE
UNAUTHORIZED PRACTICE OF LAW**

Susan B. Christoff, secretary

Ralph E. Dill, *chair*
Gerald L. Draper
James L. Ervin, Jr.
Eric Kearney
Dennis R. Newman
Steven T. Nourse
John A. Polito

**COMMITTEE ON THE APPOINTMENT
OF COUNSEL FOR INDIGENT
DEFENDANTS IN CAPITAL CASES**

Cindy Johnson, secretary.

Hon. Everett Burton, *chair*
Joann Marie Sahl
William F. Kluge
Harry R. Reinhart
Timothy Young

COMMISSION ON PROFESSIONALISM

Richard A. Dove, secretary

Thomas H. Bainbridge Jr.
Hon. Mary Kaye Bozza
Hon. Susan D. Brown
Barbara Schneider Carter
Hilary Damaser
Ralph Greco
Don C. Iler
Robin Kennedy
Hon. Cynthia C. Lazarus
Hon. Thomas Marcelain
Sarah D. Morrison
Lt. Clifton L. Spinner
Hon. David Sunderman
Barbara G. Watts, *chair*

**TASK FORCE ON RULES OF
PROFESSIONAL CONDUCT**

Richard A. Dove, staff liaison

Bernard K. Bauer
Hon. Peggy Bryant, *chair*
James Caruso
Deborah Coleman
Jonathan Coughlan
Jack A. Guttenberg
Samuel Halkias
Jonathan Hollingsworth
Charles W. Kettlewell
Hon. Sara Lioi
P. Eugene Long
Jonathan Marshall
Susan Martyn
Edwin W. Patterson III
Theresa B. Proenza
Heather G. Sowald
Brian D. Weaver
Robin G. Weaver

**LAWYER REFERRAL &
INFORMATION SERVICES COMMITTEE**

Richard A. Dove, staff liaison

Brent A. Andrewsen
Robert N. Gluck
Carol Ann Johnson
Marion Smithberger
Benson Wolman, *chair*



**OFFICE OF
CONTINUING LEGAL EDUCATION**

The Office of Continuing Legal Education oversees compliance by Ohio attorneys and judges with CLE requirements and provides staff assistance to the Commission on Continuing Legal Education. The office also supports the Commission on Certification of Attorneys as Specialists.

In 2003, the office finalized conversion of the CLE database to a new system that will eventually facilitate online access to CLE records and reporting of CLE compliance. The office also instituted enforcement proceedings against attorneys who failed to satisfy CLE requirements in the 2001-2002 reporting period.

The Commission on Certification of Attorneys as Specialists approved a certification program in the area of Residential Real Property and Business, Commercial and Industrial Real Property.

ATTORNEY REGISTRATION SECTION

The Attorney Registration Section was responsible for the registration of more than 50,000 Ohio attorneys and the collection of registration fees to support Supreme Court programs and services related to the practice of law. The section also issued more than 3,500 certificates of good standing and made substantial progress toward establishment of a new attorney registration database that will facilitate online registration and access to attorney registration information.

**COMMISSION ON
CONTINUING LEGAL EDUCATION**

Diane Chesley-Lahm, secretary

Kim Atkins
Dean Richard L. Aynes
Hon. John E. Corrigan
David R. Cory
Hon. F. Theresa Dellick, *chair*
James W. Harper
Vicki L. Jenkins
David P. Joyce
Hon. Diane Karpinski
Jennifer Lawrence
Rita A. Maimbourg
Dixilene N. Park
Lloyd Pierre-Louis
Hon. James A. Ray
John J. Reister
Michael A. Rumer
Dr. Bernice D. Smith
Brian Vicente
Hon. Richard Walton
Cheryl Washington
Paul Weimer

**COMMISSION ON CERTIFICATION OF
ATTORNEYS AS SPECIALISTS**

Diane Chesley-Lahm, secretary

Elizabeth Bernard
Hon. Colleen Conway Cooney
James D. Dennis, *chair*
Jess E. Gamiere
Clay P. Graham
Arthur Greenbaum
Hon. Howard H. Harcha III
David T. Henderson
Richard M. Lewis
Michael J. Malone
Joel H. Mirman
Louise M. Roselle
James R. Silver
Andrew N. Singer
Dean Steven H. Steinglass
E. Jane Taylor
Robert Wade

Judicial & Court Services Division

Douglas R. Stephens, Director

**Office of
Judicial & Court Services**
Douglas R. Stephens, Director

Judicial College
John Meeks, Director

Case Management Section
Diane Hatcher, Manager

Dispute Resolution Section
Eileen Pruet, Manager

Specialized Dockets Section
Melissa Knopp, Manager

Technology Resources Section
Mike Dressel, Jim Mendel
and Mary Beth Parisi,
Program Managers

In 2003 Judicial & Court Services spent a significant amount of time and resources reviewing its mission and establishing its organizational structure. While the individual offices and sections continued to offer administrative support to Ohio local courts, the division reexamined its structure to ensure efficiency and effectiveness in serving the Ohio court system in its entirety.

In addition to the Office of Judicial & Court Services, the division is divided into five separate areas: the Judicial College and the Case Management, Dispute Resolution, Specialized Dockets and Technology Resources sections. Although each section is staffed with experts, which empowers the section to complete its individual goals, the

strength of the division lies in the ability of the sections to work together on related projects.

OFFICE OF JUDICIAL & COURT SERVICES

The Office of Judicial & Court Services provides oversight of the division and directs the activities of the various offices and sections.

The Court Relations Program, headed by Ruth Ann Newcomer, serves as a general liaison to local court staff and judges. In this role, the program coordinates the Supreme Court's Off-Site Court Program visits and provides the staff liaison to the Judicial Family Network.

Court Relations staff arranged the Supreme Court visits to Ross County in April and Clinton County in October. Representatives from scheduled future host counties were invited to attend and observe the proceedings with an eye toward easing their preparations and enhancing the educational experiences of the students who will participate.

Court Relations staff hosted 36 roundtable discussions in 2003, allowing court staff and judges from similar jurisdictions to confer on common problems and share solutions. The Judicial Family Network welcomed the families of the new judges and offered learning experiences on the topics of judicial family ethics, stress and security.

The Court Interpreter Services Program, led by Bruno Romero, was established at

the end of 2003, partially in response to a recommendation from the Racial Fairness Task Force Final Report. The program manager will work with the courts of Ohio to identify the needs of the non-English speaking public in the courts and help develop best practices for serving them. Work is likely to include a training, testing and certification process for court interpreters. A statewide survey is planned for early 2004 to begin this work.

**OFF-SITE COURT EDUCATION
ADVISORY COMMITTEE**

Ruth Ann Newcomer, staff liaison

Doug Cooper
Laura Curliss
Dwight Groce
Jeff Heyob
Jared Reitz
Mike Sammons
Mark Stewart

**JUDICIAL FAMILY NETWORK
STEERING COMMITTEE**

Ruth Ann Newcomer, staff liaison

Rick Brunner, *chair*
John Burke
Todd Cooper
Steve DeGenaro
Larry Floyd
Tim Gorman
Susan Hany
Susie E. Ingraham
Maryanna Klatt
Tom Long
Leslie Marcelain
Joan McGuinness Wagner
Mary Moyer
Laurie Repp
Janet Sunderman
Sue Wolaver
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**ADVISORY COMMITTEE ON
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JUDICIAL COLLEGE

The Judicial College provides education programs and resources for the judges, magistrates, and court personnel of the state of Ohio, striving to offer innovative, practical, challenging and participatory seminars. Representatives of those who will attend the programs are substantially involved in the planning of each. Well over half of Judicial College faculty are volunteer judges, magistrates and court personnel, many of whom have attended faculty development seminars offered by the college.

The Judicial College presents a wide range of education programs, including a two-week orientation for new judges, stand-alone regional seminars, video teleconferences and seminars at judge and magistrate association meetings and the annual meeting of the Ohio Judicial Conference. Judges and magistrates must obtain a percentage of their continuing legal education requirement from the Judicial College.

In 2003, the Judicial College offered 49 traditional seminars to 3,631 judge and magistrate attendees over 74 days, with several multi-day or repeated seminars. The Judicial College presented 16 traditional seminars to 1,665 Ohio non-judicial court personnel over 27 days. In addition, 1,496 court personnel, magistrates and judges attended 11 video teleconferences, each one offered simultaneously at 15 or more sites across the state of Ohio.

The 11 members of the College staff are guided by the Judicial College Board of Trustees, which consists of nine judges and one magistrate.

JUDICIAL COLLEGE BOARD OF TRUSTEES

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CASE MANAGEMENT SECTION

A significant amount of time and resources were spent by Case Management in 2003 preparing for the statutorily mandated mayors' courts registration and statistical reporting to begin Jan. 1, 2004. Steps included developing a reporting form and working with the Court's Office of Information Technology to develop a supportive database; developing training materials and conducting training sessions throughout Ohio, identifying mayors' courts and establishing lines of communication.

The section performed case flow management assessments for Cleveland Municipal Court – Housing Division; the juvenile courts in Cuyahoga, Darke, Hamilton, Mahoning and Miami counties;

the Pike County Probate/Juvenile Court; the common pleas courts in Greene, Hamilton, Lucas counties and the Lorain Municipal Court.

In early 2003, Steve Hanson, family law program manager, joined the section to focus on family law case management matters. In addition to offering case management assistance to local courts, Hanson helps support the work of the Advisory Committee on Children, Families & the Courts and manages the federally funded Court Improvement Program.

The incorporation of Brian Farrington, assignment officer, into Case Management was completed in mid-2003. The assignment officer's work now benefits from the caseload statistical analysis available in the section. Additionally, assignment information is now more readily available for case management reviews.

The Case Management Section also published *The Ohio Courts Summary*, an annual statistical compilation, in addition to responding to regular caseload statistical inquiries.

DISPUTE RESOLUTION SECTION

The Dispute Resolution Section started and funded – through Supreme Court grants – new mediation programs for Wood and Hancock counties; Ross and Pike counties; and Belmont, Harrison and Jefferson counties. In addition, the section continued its support for Morrow County.

The section also conducted numerous trainings, including a *Bridges-Out-of-Poverty* training, various mediation-specific and domestic violence trainings, and, in conjunction with Capital University, the first National Conference on Minority Professionals in Alternative Dispute Resolution. Dispute Resolution conducted several of its trainings in conjunction with the Judicial College.

Dispute Resolution completed an extensive strategic planning exercise in collaboration with the Supreme Court Advisory Committee on Dispute Resolution and experienced a number of personnel changes, including the transfer of Bruno Romero to the newly created Interpreter Services Program and the return of Eileen Pruett to the field position of program manager.

ADVISORY COMMITTEE ON DISPUTE RESOLUTION PROGRAMS

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Dean Nancy Rogers
Josh Stulberg
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Marc Warner
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Hon. Howard S. Zwelling



SPECIALTY DOCKETS SECTION

Originally established to help local drug courts, this section significantly expanded its responsibilities in 2003 – particularly in the area of mental health courts. In late 2003 a program manager was added with federal funding to assist family drug courts in Ohio. In early 2004, additional staff will be added to expand services to mental health courts. Domestic violence initiatives in the state also receive a significant amount of staff support from this section.

The number of drug courts in Ohio rose in 2003 to 57, serving 32 counties. They include:

- 1 driving under the influence court
- 11 municipal drug courts
- 18 juvenile drug courts
- 11 family drug courts, and
- 16 common pleas courts.

While all of the courts can receive some support from this section, four of the family drug courts are almost entirely funded by the Supreme Court through federal grant money.

The section supported regular trainings, including an annual statewide drug court conference, a number of high-quality recorded trainings made available for use at the courts convenience, *Bridges-Out-of-Poverty* trainings for drug court professionals and a statewide methamphetamine summit in cooperation with the state Attorney General's Office and the U.S. Drug Enforcement Agency.

The Supreme Court Domestic Violence Advisory Committee, staffed by this section, accomplished a number of goals in 2003, including formalizing its

structure, beginning work on developing best practices guidelines for domestic violence-related matters and finalizing changes in protection orders.

The section submitted two major grant applications in 2003 to expand its services to mental health courts; approval is likely in early 2004. The 50-member advisory committee led by Justice Evelyn Lundberg Stratton and staffed by the Specialty Dockets Section continued to meet monthly and planned a number of training activities for 2004.

DOMESTIC VIOLENCE ADVISORY COMMITTEE

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James L. Brown
Rosanne Buell
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Karen Harvey
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ADVISORY COMMITTEE ON MENTALLY ILL IN THE COURTS

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Hon. Joyce Campbell
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Dr. Stephen Cosby
Nancy Cunningham
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Penny Frese
Jo Ann Harris
Debbie Nixon Hughes
Paul Jarvis
Joe Krake
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Kim Linkinhoker
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Glenn McCleese
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Hon. Michael J. Sage
Corey Schaal
Carole B. Schneider
Marie Scott
Dr. Lisa Shoaf
Dr. Howard Sokolov
Paul W. Spaite
Hon. Elinore Marsh Stormer
Doug Stephens
Sheriff Tom Steyer
Michael J. Stringer
Hon. Thomas A. Swift
Dr. S.R. Thorward
Dr. Glenn Thomas
Christy Tull
Marc Warner
Winnifred Weeks
China Widener
Michael S. Woody

TECHNOLOGY RESOURCES SECTION

Technology Resources secured federal funds in 2003 for five courts to implement their first computerized case management systems. The final four courts in Ohio awaiting computer systems will receive assistance in 2004.

The section completed 16 local technical assistance projects, including a number of long-term strategic plans and began an equal number of new projects. The appellate court project – OASIS – continued to receive technical support from this section with the assistance of an outside consultant. Five districts are using the program with a plan for future growth being developed.

The Advisory Committee on Technology & the Courts continued to be very active in 2003 through its multiple subcommittees and work groups. The Ohio Courts Network remains the committee's primary focus – a business plan is under development – while a number of smaller yet equally important projects were well underway or completed in 2003. The Privacy Subcommittee was very busy and will have a draft recommendations completed in mid-2004. E-filing standards were readied for publication and the Supreme Court voted to accept the fax filing standard in November. The Uniform Case Numbering Standard was near completion in 2003 while data dictionary work continued.

**ADVISORY COMMITTEE ON
TECHNOLOGY & THE COURTS**

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Tim Collins
Sherry Eckman
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Hon. Cheryl Grant
Gerald Heaton
Gregory Jackson
Brad Kunze

Hon. Paulette Lilly
Tom McDermott
Gregory Meyers
Hon. Milt Nuzum
Greg Popovich
Hon. Jack Puffenberger
David Saffle
Greg Scott
Kathryn Wilson
Hon. John Wise
Hon. Thomas Zachman

THE OHIO COURTS NETWORK

In October 2002, Ohio Judges began considering the creation of a statewide computer network connecting all Ohio courts, engaging court clerks and personnel at every level in all stages of the planning.

Since then, the idea of a secure Web portal for statewide court data – for use by the general public and Ohio judges, legal practitioners and justice system partners – has evolved into a concept known as the Ohio Courts Network.

As a centralized repository of critical court data, an Ohio Courts Network would streamline the delivery and administration of justice. Network access to court dockets, rules and sample forms will provide court personnel, practitioners and pro se litigants with much-needed tools and the general public with a greater understanding of the court system.

More information is available online at www.sconet.state.oh.us/ocn.



AFFILIATED OFFICES

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 Ohio 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 calendar year 2003, the office received 1,664 grievances that were dismissed upon initial review and an additional 1,024 grievance files that were opened for investigation. The office filed 46 formal actions with the Board of Commissioners on Grievance & Discipline that were later certified to the Supreme Court. The office also received:

- 326 appeals
- 95 allegations of the unauthorized practice of law
- 20 resignations from the practice of law
- 8 filings of reciprocal discipline
- One case involving the nonpayment of child support.



BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

Jonathan W. Marshall, secretary

The Board of Commissioners on Grievances & 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 2003, the board met on eight days and received a record number of formal complaints – 118 – filed by the Office of Disciplinary Counsel and local certified grievance committees. The board held 69 disciplinary hearings and certified 77 matters to the Supreme Court, disposing of a total of 102 cases. As a result of the disciplinary process, 16 Ohio lawyers resigned from the practice of law. There were 108 disciplinary cases pending on the board's docket at the end of the year.

Nine new formal complaints were filed against judges, judicial officers and candidates for judge. The board spent 22 hearing days on judicial matters during the year. In addition, it heard one election-related judicial campaign complaint.

The board again assisted and reviewed local certified grievance committees in documenting requests for reimbursement of all disciplinary-related expenses, both on a quarterly and annual basis and assisted the Office of Disciplinary Counsel in conducting a training session for

new bar counsel. It conducted a survey of certified grievance committees and compliance with Gov. Bar R. V.

The board continued its efforts at education and recognition of mental health problems affecting lawyers and the legal profession. It helped produce a new educational program on this topic for the Ohio Judicial Conference. The board's proposed standards for mental illness suspension and regulations regarding mitigation when mental disability is present were adopted by the Supreme Court in February 2003. The board also assisted the Supreme Court in reviewing and commenting on a number of possible amendments to Gov. Bar R. V and the Ohio Code of Judicial Conduct.

Chief Justice Moyer appointed five present or past members of the board and its secretary to serve on the Task Force on Rules of Professional Conduct. The task force is studying the American Bar Association Model Rules governing the conduct of lawyers. The task force will make recommendations to the Ohio Supreme Court for changes to the Ohio ethics rules for lawyers. This group met nine times during 2003.

The board also:

- Received 53 requests for advisory opinions and issued nine 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 and issued 28 staff opinion letters.

- For the 12th year provided partial reimbursement to local certified grievance committees for ongoing grievance and discipline expenses.
- Sponsored and assisted in two statewide seminars for members of certified grievance committees.
- Made presentations in three Ohio law schools on legal ethics and the disciplinary process.
- Taught five courses on campaign law and ethics required of Ohio judicial candidates under Canon 7.
- Presented 29 continuing legal education programs for judges, their spouses, lawyers, public employees and students of the law
- Improved access to all its advisory opinions on its Web site; and
- Responded to more than 1900 telephone inquiries regarding ethics from attorneys, judicial officers, candidates and members of the public. Four of the 2003 board's advisory opinions were reported and discussed in the ABA/BNA Lawyers' Manual on Professional Conduct.

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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Robin G. Weaver
Hon. Harry White



Clients' Security Fund

Janet Green Marbley, administrator

During fiscal year 2003, the Board of Commissioners of the Clients' Security Fund of Ohio reviewed a total of 131 claims, and determined that 105 of those claims were eligible for reimbursement. The board awarded a total of \$1,006,729 to 104 victims of attorney theft. Nine of those victims received the maximum award amount of \$50,000. Ninety-six of those victims received 100 percent reimbursement of their loss. The reimbursement awards resulted from the dishonest conduct of 39 Ohio attorneys.

The fund also collected a total of \$17,786 in restitution/subrogation proceeds from the attorneys involved in claims.

Clients' Security Fund staff and board members continued their efforts to implement programs aimed at preventing attorney theft, including insurance payee notification and trust account overdraft notification. They were assisted in these efforts by the Supreme Court's Legislative Director.

The Clients' Security Fund staff includes a secretary/receptionist, claims analyst and fiscal specialist.

BOARD OF COMMISSIONERS OF THE CLIENTS' SECURITY FUND

Luis M. Alcalde
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Capt. Robert W. Everett
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Jerome Phillips, *chair*
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SELECTED OPINION SUMMARIES

The following is a chronological list of the merit decisions with opinions decided by the Supreme Court in 2003 that were summarized by the Office of Public Information. Lawyer and judicial discipline cases are not included. The full text of these and all 2003 decisions, including the vote in each case, is available online at www.sconet.state.oh.us/ROD.

MARCH 2003

***Jones v. Action Coupling & Equip., Inc.*, case nos. 2002-0070 and 2002-0149.
(Web cite 2003-Ohio-1099.)**

Opinion by Justice Sweeney.

A court settlement of a disputed Workers' Compensation claim between an injured worker and an employer who pays premiums into the state Workers' Compensation fund is not subject to approval by the administrator of the Bureau of Workers' Compensation.

Holmes App. No. 01CA013, 2001-Ohio-1958. Judgment reversed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and
O'Connor, JJ., concur.
Harsha, J., concurs in judgment only.
William H. Harsha III, J., of the 4th Appellate District, sitting for
Cook, J.

***Gordon v. Gordon*, case no. 2002-0299.
(Web cite 2003-Ohio-1069.)**

Opinion by Justice Resnick.

A party filing objections to a magistrate's decision in a trial court before the magistrate's written decision has been filed does not violate "timely filing" requirements.

Warren App. No. CA2001-04-033, 2001-Ohio-8648. Judgment
reversed and cause remanded.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Christley, Lundberg
Stratton and O'Connor, JJ., concur.
Judith A. Christley, J., of the 11th Appellate District, sitting for
Cook, J.

APRIL 2003

***State v. Braden*, case no. 1999-1452.**

(Web cite 2003-Ohio-1325.)

Opinion by Justice O'Connor; dissent by Justice Pfeifer.

Affirms the aggravated murder convictions and death sentence of David L. Braden of Columbus for the 1998 shooting deaths of Denise Roberts and her 83-year-old father, Ralph Heimlich.

Franklin C.P. No. 98 CR-08-4601. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Donofrio, Lundberg Stratton
and O'Connor, JJ., concur.
Pfeifer, J., dissents.
Gene Donofrio, J., of the 7th Appellate District, sitting for Cook, J.

***Shampton v. Springboro*, case no. 2001-2251.**

(Web cite 2003-Ohio-1913.)

Opinion by Justice Sweeney; dissent by Justice Pfeifer.

A vendor who relied on an agreement with a city manager that was not approved by the manager's city council, as required by ordinance, is not entitled to recover damages from the city for breach of contract.

Warren App. Nos. CA2000-08-080 and CA2000-09-081. Judgment
reversed.
Moyer, C.J., Resnick, F.E. Sweeney, Whitmore, Lundberg Stratton
and O'Connor, JJ., concur.
Pfeifer, J., dissents.
Beth Whitmore, J., of the 9th Appellate District, sitting for Cook, J.

MAY 2003

***State v. Lynch*, case no. 1999-2248.**

(Web cite 2003-Ohio-2284.)

Opinion by Chief Justice Moyer.

Unanimously rejects 22 assignments of legal or procedural error by the trial court and upheld the convictions and death sentence of Ralph Lynch of Cincinnati for the 1998 kidnapping, rape and murder of 6-year-old Mary Jennifer Love.

Hamilton C.P. No. B-9804522. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Wolff, Lundberg
Stratton and O'Connor, JJ., concur.
William H. Wolff Jr., J., of the 2nd Appellate District, sitting for
Cook, J.

State ex rel. State v. Lewis, case no. 2003-0447.

(Web cite 2003-Ohio-2476.)

Opinion by Justice Stratton.

Grants a writ of prohibition requested by the state ordering Judge Linton B. Lewis Jr. of Perry County to stop proceedings in his court aimed at enforcing the Supreme Court's final decision in the *DeRolph v. State of Ohio* (school funding case).

In Prohibition. Writ granted.

Pfeifer and Lundberg Stratton, JJ., concur.

Moyer, C.J., Cook and O'Connor, JJ., concur in judgment only.

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

State v. Watkins, case no. 2001-2273.

(Web cite 2003-Ohio-2419.)

Opinion by Justice Pfeifer.

In accepting a guilty or no-contest plea to a petty misdemeanor traffic charge, a judge is not required to go through the detailed explanation of the consequences of the plea that is required when a defendant pleads guilty or no contest to a felony.

Greene App. No. 2001CA15, 2001-Ohio-1841. Judgment affirmed.

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

Beth Whitmore, J., of the 9th Appellate District, sitting for Resnick, J.

John F. Boggins, J., of the 5th Appellate District, sitting for Cook, J.

JUNE 2003

Lehtinen v. Drs. Lehtinen, Mervart & West, Inc., case no. 2002-0227.

(Web cite 2003-Ohio-2574.)

Opinion by Justice Resnick.

In a case involving transfer of shares of stock in a medical professional association, a non-professional may hold title to the shares of a deceased professional while serving as executor or administrator of the deceased practitioner's estate.

Cuyahoga App. No. 79164. Judgment affirmed and cause
remanded.

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

William G. Batchelder, J., of the 9th Appellate District, sitting for
Cook, J.

***Armstrong v. Best Buy Co., Inc.*, case no 2002-0367.
(Web cite 2003-Ohio-2573.)**

Opinion by Justice Sweeney; dissent in part by Justice Pfeifer.

Affirms the legal doctrine that property owners owe no duty to protect invited guests, including business customers, against a hazard on their property when the hazard is “open and obvious.”

Lorain App. No. 01CA007848, 2001-Ohio-1934. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Wise, Lundberg Stratton and O’Connor, JJ., concur.

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

John W. Wise, J., of the 5th Appellate District, sitting for Cook, J.

***Rancman v. Interim Settlement Funding Corp.*, case no. 2001-2154.
(Web cite 2003-Ohio-2721.)**

Opinion by Justice O’Connor.

Except as expressly authorized by legislative enactment or legal ethics rules, financial agreements in which a third party advances money to a civil litigant in exchange for a percentage of the litigant’s prospective damage award constitute the practice of champerty and are void and unenforceable.

Summit App. No. 20523, 2001-Ohio-1669. Judgment affirmed.

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

Resnick and Christley, JJ., concur separately.

Judith A. Christley, J., of the 11th Appellate District, sitting for Cook, J.

***State v. Fisher*, case no. 2002-0201.
(Web cite 2003-Ohio-2761.)**

Opinion by Chief Justice Moyer.

The practice of allowing jurors to submit questions to witnesses through the judge is within the discretion of the trial court and is not per se prejudicial to the rights of criminal defendants.

Franklin App. No. 01AP-614, 2001-Ohio-8772. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Christley, Lundberg Stratton and O’Connor, JJ., concur.

Pfeifer, J., concurs in syllabus and judgment.

Judith A. Christley, J., of the 11th Appellate District, sitting for Cook, J.

***State v. Peeler*, case no. 2002-0230.**

(Web cite 2003-Ohio-2903.)

Opinion by Justice Pfeifer.

Internal medication administration reports and proof-of-use sheets used by nursing homes to track delivery of medicine to patients are “drug records” under Ohio’s Controlled Substances Act, and employees falsifying such forms are subject to prosecution for improper processing of drug documents.

Montgomery App. No. 18831, 2002-Ohio-109. Judgment reversed and cause remanded.

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

Michael J. Corrigan, J., of the 8th Appellate District, sitting for Cook, J.

***Cincinnati Ins. Co. v. Anders*, case no. 2002-0248.**

(Web cite 2003-Ohio-3048.)

***GuideOne Mut. Ins. Co. v. Reno*, case no. 2002-0248.**

(Web cite 2003-Ohio-3048.)

Opinion by Chief Justice Moyer.

Homeowners’ insurance policies do not provide coverage to policyholders who sell their homes and are subsequently sued by the buyer for failing to disclose property damage that occurred during their occupancy.

Greene App. No. 2001CA42, 2001-Ohio-1920, and Greene App. No. 01CA68, 2002-Ohio-2057. Judgments affirmed.

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

Timothy E. McMonagle, J., of the 8th Appellate District, sitting for Cook, J.

JULY 2003

***State v. Vrabel*, case no. 2000-0644.**

(Web cite 2003-Ohio-3193.)

Opinion by Justice Resnick; dissent by Chief Justice Moyer.

Upholds the convictions and death sentence of Stephen Vrabel for the aggravated murders of his live-in companion, Susan Clemente, and the couple’s 3-year-old daughter in 1989. After shooting the victims, Vrabel placed the bodies in the refrigerator and freezer at their apartment and continued living there for several weeks before leaving the city.

Mahoning App. No. 95CA221, 2000-Ohio-2650. Judgment affirmed.

Resnick, F.E. Sweeney, Cooney and O’Connor, JJ., concur.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.
Colleen Conway Cooney, J., of the 8th Appellate District, sitting for
Cook, J.

In re Jones, case no. 2002-0176.
(Web cite 2003-Ohio-3182.)

Opinion by Chief Justice Moyer.

Statements made by an individual to a licensed psychologist or licensed independent social worker during a court-ordered examination for forensic purposes in a child neglect, abuse or dependency proceeding are not privileged communications that the clinician is prohibited from disclosing.

Franklin App. No. 01AP-376, 2001-Ohio-3937. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Vukovich, Lundberg
Stratton and O'Connor, JJ., concur.
Joseph J. Vukovich, J., of the 2nd Appellate District, sitting for
Cook, J.

Colbert v. Cleveland, case no. 2002-0101.
(Web cite 2003-Ohio-3319.)

Opinion by Justice Stratton; dissents by Justice Pfeifer and Judge Wise.

State law exempts cities from liability for accident damages caused by police vehicles when they are answering any "call to duty" to which an officer has a professional obligation to respond.

Cuyahoga App. No. 77635. Judgment affirmed.
Resnick, F.E. Sweeney, Lundberg Stratton and O'Connor, JJ.,
concur.
Moyer, C.J., dissents.
Pfeifer, J., dissents.
Wise, J., dissents.
John W. Wise, J., of the 5th Appellate District, sitting for Cook, J.

Penn Traffic Co. v. AIU Ins. Co., case nos. 2001-1891 and 2002-0262.
(Web cite 2003-Ohio-3373.)

Opinion by Justice O'Connor; dissent on part by Justice Pfeifer.

A commercial general liability insurance policy that excludes coverage for employee injuries that "arise in the course of employment" does not cover an employer's liability to an employee for a "substantially certain" intentional tort. The case involved an intentional tort judgment against Penn Traffic, owner of the Big Bear grocery chain, awarded to an employee for serious injuries suffered in a fall from a store loading dock.

Pike App. No. 00CA653, 2001-Ohio-2567. Judgment affirmed.
Moyer, C.J., F.E. Sweeney, Slaby, Lundberg Stratton and
O'Connor, JJ., concur.
Resnick, J., concurs in judgment.

Pfeifer, J., concurs in part and dissents in part.
Lynn C. Slaby, J., of the 9th Appellate District, sitting for Cook, J.

***Frenchtown Square Partnership v. Lemstone, Inc.*, case nos. 2001-1165 and 2001-2259.
(Web cite 2003-Ohio-3648.)**

Opinion by Justice O'Connor.

When a tenant breaches a commercial lease and abandons the property, a landlord must make a reasonable effort to reduce its losses by attempting to relet the property for the uncompleted term of the lease.

Mahoning App. No. 99 CA 300, 2001-Ohio-3245. Judgment affirmed.

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

***Roman v. Estate of Gobbo*, case no. 2002-0285.
(Web cite 2003-Ohio-3655.)**

Opinion by Justice Resnick.

Upholds a 1956 ruling that a driver who loses consciousness and causes an accident as the result of a sudden and unforeseeable medical emergency does not act negligently, and thus cannot be held liable for damages arising from the accident.

Cuyahoga App. No. 79119. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Walters and Lundberg Stratton, JJ., concur.

O'Connor, J., concurs separately.

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

Sumner Walters, J., of the 3rd Appellate District, sitting for Cook, J.

***Neville v. Neville*, case no. 2002-1173.
(Web cite 2003-Ohio-3624.)**

Opinion by Justice Sweeney.

In making equitable distribution of marital property in divorce proceedings, state courts may consider the unequal value of future Social Security benefits payable to each spouse in relation to all marital assets.

Holmes App. No. 01CA028, 2002-Ohio-2901. Judgment reversed.

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

Donald R. Ford, J., of the 11th Appellate District, sitting for Cook, J.

***State ex rel. Clark v. Great Lakes Constr. Co.*, case no. 2002-0001.
(Web cite 2003-Ohio-3802.)**

Opinion by Justice O'Connor.

An employer may assess a reasonable charge for providing copies of medical records to an employee who is pursuing a disputed Workers' Compensation claim.

Franklin App. No. 01AP-326. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Young, Lundberg
Stratton and O'Connor, JJ., concur.
William W. Young, J., of the 12th Appellate District, sitting for
Cook, J.

AUGUST 2003

***State v. Brown*, case no. 2002-0242 .**
(Web cite 2003-Ohio-3931.)

Opinion by Justice Resnick; dissent by Justice O'Connor.

The Ohio Constitution prohibits warrantless custodial arrests and searches of those stopped by police for minor misdemeanor offenses, even though such arrests and searches are permitted under the Fourth Amendment to the U.S. Constitution.

Montgomery App. No. 18972, 2001-Ohio-7073. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer and Kline, JJ., concur.
Lundberg Stratton and O'Connor, JJ., dissent.
Roger L. Kline, J., of the 4th Appellate District, sitting for Cook, J.

***Bosher v. Euclid Income Tax Bd. of Review*, case no. 2002-0984.**
(Web cite 2003-Ohio-3886.)

Opinion by Justice Sweeney.

The city of Euclid must refund more than \$102,000 in city income tax to a local couple who won a \$3.5 million Ohio Lottery prize. Because the winnings arose from the purchase of a chance in a lottery, they were not taxable under an ordinance defining "taxable income" as "wages, salaries and other compensation paid by an employer and/or the net profits from the operation of a business, profession or other enterprise or activity."

Cuyahoga App. No. 80240, 2002-Ohio-2671. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton,
O'Connor and O'Donnell, JJ., concur.

***State v. Hughbanks*, case no. 2000-0057.**
(Web cite 2003-Ohio-4121.)

Opinion by Justice Pfeifer.

Affirms the convictions and death sentence of Gary Hughbanks Jr. for the 1987 aggravated murders of William and Juanita Leeman of Springfield Township in rural Hamilton County.

Hamilton App. No. C-980595. Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Petree, Lundberg
Stratton and O'Connor, JJ., concur.
Charles R. Petree, J., of the 10th Appellate District, sitting for
Cook, J.

Pinchot v. Charter One Bank, F.S.B., case no. 2002-0945.

(Web cite 2003-Ohio-4122.)

Opinion by Justice Resnick.

Federal regulations governing federally chartered savings banks do not preempt a state law that allows a borrower to recover \$250 in civil damages from a lender who fails to record satisfaction of a mortgage within 90 days of receiving final payment.

Cuyahoga App. No. 79359, 2002-Ohio-1654. Judgment affirmed and cause remanded.

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

J. Howard Sundermann, Jr., J., of the 1st Appellate District, sitting for Cook, J.

State v. Williams, case no. 1999-1878.

(Web cite 2003-Ohio-4164.)

Opinion by Justice O'Connor.

Upholds the death sentence and aggravated murder, rape, aggravated robbery and aggravated burglary convictions of Robert Williams Jr. in the 1999 killing of 88-year-old Velma McDowell, who was robbed, sexually assaulted and strangled in her apartment.

Lucas C.P. No. CR 99-1366. Judgment affirmed.

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

William B. Hoffman, J., of the 5th Appellate District, sitting for Cook, J.

State v. Comer, case nos. 2002-0351 and 2002-0422 .

(Web cite 2003-Ohio-4165.)

Opinion by Justice Sweeney; dissent by Judge Grady.

When an Ohio judge imposes a non-minimum sentence for a first offense or sentences an offender to consecutive prison terms for multiple convictions, the statutorily required legal findings supporting those sentencing decisions must be announced in court at the time the sentence is pronounced.

Lucas App. No. L-99-1296, 2002-Ohio-233. Judgment reversed and cause remanded.

Moyer, C.J., Carr, F.E. Sweeney and Pfeifer, JJ., concur.

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

Donna J. Carr, J., of the 9th Appellate District, sitting for Resnick, J.

Thomas J. Grady, J., of the 2nd Appellate District, sitting for Cook, J.

Assn. of Cleveland Fire Fighters, Local 93 of the Internatl. Assn. of Fire Fighters v. Cleveland., case no. 2002-0612.

(Web cite 2003-Ohio-4278.)

Opinion by Justice O'Connor; dissent in part by Judge Grendell.

The city of Cleveland's practice of changing the shift assignments of individual firefighters to accommodate day-to-day scheduling problems violates the collective bargaining agreement between the city and the firefighters union.

Cuyahoga App. No. 78970, 2002-Ohio-498. Judgment affirmed in part and reversed in part.

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

Grendell and Lundberg Stratton, JJ., concur in part and dissent in part.

Diane V. Grendell, J., of the 11th Appellate District, sitting for Cook, J.

SEPTEMBER 2003

State v. Williams, case no. 1999-1218.

(Web cite 2003-Ohio-4396.)

Opinion by Justice Stratton; dissent in part by Justice Pfeifer.

Upholds the convictions of Shawn C. Williams of Toledo for the 1995 rape and aggravated murder of Catrise Gregory, but unanimously vacates Williams's death sentence and remands his case to the trial court for a new sentencing hearing. In addition, holds that once a jury has been polled and all members have assented to a verdict, a juror may not afterward rescind or modify his or her vote.

Lucas C.P. No. CR97-2268. Judgment affirmed in part, reversed in part, and cause remanded.

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

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

Stephen R. Shaw, J., of the 3rd Appellate District, sitting for Cook, J.

Ohio Civ. Rights Comm. v. Countrywide Home Loans, Inc., case no. 2002-0150.

(Web cite 2003-Ohio-4358.)

Opinion by Justice Pfeifer; dissent by Judge Carr.

The Ohio Civil Rights Commission must enter a formal complaint against an alleged violator within one year after the initial filing of a discrimination charge by the alleged victim.

Lucas App. No. L-01-1285. Judgment affirmed.

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

Carr and Lundberg Stratton, JJ., dissent.

Donna J. Carr, J., of the 9th Appellate District, sitting for Resnick, J.
Stephen R. Shaw, J., of the 3rd Appellate District, sitting for
Cook, J.

***Klein v. Leis*, case no. 2002-0585.
(Web cite 2003-Ohio-4779.)**

Opinion by Justice Pfeifer; dissent by Justice O'Connor.

Ohio's state law that prohibits carrying concealed weapons does not infringe the "right to bear arms for ... defense and security" guaranteed in the state constitution. This decision reversed earlier rulings by the Hamilton County Common Pleas Court and 1st District Court of Appeals that held the law unconstitutional.

Hamilton App. Nos. C-020012, C-020013, C-020015 and C-020021,
2002-Ohio-1634. Judgment reversed and cause remanded.

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

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

Richard W. Knepper, J., of the 6th Appellate District, sitting for
Cook, J.

***State v. Lucas*, case no. 2002-0925.
(Web cite 2003-Ohio-4778.)**

Opinion by Justice Pfeifer.

If a domestic violence victim has obtained a court-issued protective order against an abusive partner, and then initiates or allows contact with the partner, the victim may not be charged with complicity to violate the protective order.

Licking App. No. 01CA00100, 2002-Ohio-2514. Judgment reversed.

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

Mark L. Pietrykowski, J., of the 6th Appellate District, sitting for
Cook, J.

OCTOBER 2003

***State v. Brown*, case no. 2001-0524.
(Web cite 2003-Ohio-5059.)**

Opinion by Justice Sweeney.

Upholds the convictions and death sentence of Mark A. Brown for the aggravated murders of Youngstown convenience store owner Isam Salman and clerk Hayder al Turk in 1994, overrules the 15 propositions of law raised by Brown alleging legal or procedural error during his arrest and trial and affirms earlier rulings in the case.

Mahoning App. No. 96 C.A. 56, 2001-Ohio-3175. Judgment
affirmed.

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

Judy v. Ohio Bur. of Motor Vehicles, case no. 2002-0293.
(Web cite 2003-Ohio-5277.)

Opinion by Chief Justice Moyer; dissent by Judge Carr.

Under former provisions of the state's drunken driving law, Ohio drivers who waited until both their administrative and judicial license suspensions for driving under the influence had expired and then filed a single application for reinstatement should have been charged only one \$250 reinstatement fee.

Lucas App. No. L-01-1200, 2001-Ohio-2909. Judgment affirmed in part and reversed in part.

Moyer, C.J., F.E. Sweeney, Pfeifer, Walters and Wise, JJ., concur.

Carr and Lundberg Stratton, JJ., dissent.

Donna J. Carr, J., of the 9th Appellate District, sitting for Resnick, J.

Sumner E. Walters, J., of the 3rd Appellate District, sitting for Cook, J.

John W. Wise, J., of the 5th Appellate District, sitting for O'Connor, J.

In re Thomas, case no. 2002-0824.

(Web cite 2003-Ohio-5162.)

(Consolidated with case no. 2002-0892, *In Re Buford*.)

Opinion by Justice Sweeney; dissent in part by Justice Stratton.

Juvenile offenders who spend time in a residential rehabilitation or treatment center while under a suspended sentence of commitment to the Department of Youth Services may count days spent in such a center as "time served" toward a reinstated term of confinement by the department only if those days fit the limited definition of "detention" in the state's juvenile offender statute.

Warren App. No. CA2001-02-013, 2002-Ohio-1426.

Judgment affirmed as modified and cause remanded.

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

Resnick, J., concurs in judgment.

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

Cynthia C. Lazarus, J., of the 10th Appellate District, sitting for Cook, J.

In re Subpoena Duces Tecum Served Upon Atty. Potts, case no. 2002-0953.

(Web cite 2003-Ohio-5234.)

Opinion by Chief Justice Moyer.

Before ruling on a motion to quash a subpoena for documents in a criminal case, a court must hold an evidentiary hearing at which the party demanding pretrial production of documents is required to meet a four-part test to demonstrate that the subpoena is not unreasonable or oppressive.

Lucas App. No. L-01-1033, 2002-Ohio-2050.
Moyer, C.J., Ford, F.E. Sweeney, Petree, Lundberg Stratton and
O'Connor, JJ., concur.
Pfeifer, J., concurs separately.
Donald R. Ford, J., of the 11th Appellate District, sitting for
Resnick, J.
Charles R. Petree, J., of the 10th Appellate District, sitting for
Cook, J.

Worthington v. Columbus, case no. 2002-1106.
(Web cite 2003-Ohio-5099.)

Opinion by Chief Justice Moyer; dissent by Justice Pfeifer.

A city cannot invoke its "home rule" power of eminent domain to acquire real property owned by another municipality if that property is currently used for a public purpose and the acquisition would destroy the current public use.

Franklin App. Nos. 01AP-1119 and 01AP-1120, 2002-Ohio-2330.
Judgment affirmed.
Moyer, C.J., Resnick, F.E. Sweeney, Harsha, W. Young and
O'Connor, JJ., concur.
Pfeifer, J., dissents.
William H. Harsha III, J., of the 4th Appellate District, sitting for
Cook, J.
William W. Young, J., of the 12th Appellate District, sitting for
Lundberg Stratton, J.

Coolidge v. Riverdale Local School Dist., case no. 2002-1407.
(Web cite 2003-Ohio-5357.)

Opinion by Justice Resnick.

An employee who is receiving temporary total disability compensation under the state Workers' Compensation Act may not be discharged by her employer solely for absences or inability to work directly related to the allowed condition for which she is receiving benefits.

Hancock App. No. 5-01-42, 2002-Ohio-3401. Judgment reversed
and trial court judgment reinstated.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Hildebrandt,
Lundberg Stratton and O'Connor, JJ., concur.
Lee H. Hildebrandt Jr., J., of the 1st Appellate District, sitting for
Cook, J.

***State v. Burnside*, case nos. 2002-1440 and 2002-1524.**

(Web cite 2003-Ohio-5372.)

Opinion by Chief Justice Moyer.

Affirms an appellate court ruling that blood alcohol test results are inadmissible as evidence in a trial for driving under the influence when medical personnel who take a blood sample fail to use a solid coagulant as required by state health department regulations.

Fairfield App. No. 01CA60, 2002-Ohio-4344. Judgment affirmed.

Moyer, C.J., Hildebrandt, F.E. Sweeney, Pfeifer, Klatt, Lundberg
Stratton and Brown, JJ., concur.

Lee H. Hildebrandt Jr., J., of the 1st Appellate District, sitting for
Resnick, J.

William A. Klatt, J., of the 10th Appellate District, sitting for Cook,
J.

Susan Brown, J., of the 10th Appellate District, sitting for
O'Connor, J.

***State v. Taylor*, case no. 2002-0840.**

(Web cite 2003-Ohio-5452.)

Opinion by Justice Pfeifer.

Because of differences in the wording of two sections of state law, the current statute requiring some sex offenders to register with their county sheriff does not include past offenders who have been found to be "sexual predators," but who were released from prison terms for sex-related offenses before the registration law took effect.

Cuyahoga App. No. 79475, 2002-Ohio-1554. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Petree and Lundberg
Stratton, JJ., concur.

Petree, Lundberg Stratton and O'Connor, JJ., concur separately.

Charles R. Petree, J., of the 10th Appellate District, sitting for
Cook, J.

NOVEMBER 2003

***State v. Hutton*, case nos. 2000-0816 and 2000-1540.**

(Web cite 2003-Ohio-5607.)

Opinion by Chief Justice Moyer.

Affirms the death penalty for a man convicted in the 1985 shooting death of an acquaintance he suspected of stealing his sewing machine and \$750 cash.

Cuyahoga App. No. 51704. Judgments affirmed.

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

***Keller v. Columbus*, case no. 2002-0551.**

(Web cite 2003-Ohio-5599.)

Opinion by Justice Stratton.

Any provision within a collective bargaining agreement that conflicts or fails to comport with Ohio's Public Records Act is invalid.

Franklin App. No. 01AP-1045, 2002-Ohio-622. Judgment affirmed in part and reversed in part.

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

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

Diane V. Grendell, J., of the 11th Appellate District, sitting for Cook, J.

***Westfield Ins. Co. v. Galatis*, case no. 2002-0932.**

(Web cite 2003-Ohio-5849.)

Opinion by Justice O'Connor; dissents by justices Resnick, Sweeney and Pfeifer.

Largely overrules the Court's prior holdings in two 1999 auto insurance cases, *Scott-Pontzer v. Liberty Mutual Insurance Co.* and *Ezawa v. Yasuda Fire and Marine Insurance* by ruling that:

- The uninsured/underinsured motorist (UM/UIM) coverage in an auto insurance policy issued to a business applies to employees of the business only when they are injured in the course of job-related travel.
- Resident family members of employees are entitled to UM/UIM coverage under an employer's corporate auto policy only if the employee is specifically named as an insured person in the policy.

In a companion action announced the same day, *In re Uninsured and Underinsured Motorist Coverage Cases*, the court decided more than 100 other cases involving similar UM/UIM coverage claims in accordance with the legal reasoning in its *Galatis* decision.

Summit App. No. 20784, 2002-Ohio-1502. Judgment affirmed. Moyer, C.J., DeGenaro, Lundberg Stratton and O'Connor, JJ., concur.

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

Resnick, J., dissents.

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

Pfeifer, J., dissents.

Mary DeGenaro, J., of the 7th Appellate District, sitting for Cook, J.

***State v. Kaplowitz*, case no. 2002-1831.**

(Web cite 2003-Ohio-5602.)

Opinion by Justice Stratton.

If a defendant pleads guilty to a criminal offense, and the law changes prior to sentencing, the defendant may not be sentenced under the new statute if doing so would change the nature of the offense to which the defendant pleaded guilty.

Lake App. No. 2001-L-025, 2002-Ohio-4217. Judgment affirmed and cause remanded.

Moyer, C.J., Resnick, Lundberg Stratton, O'Connor and

O'Donnell, JJ., concur.

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

***State ex rel. Mahoning Cty. Commrs. v. Maloney*, case no. 2003-1608.**

(Web cite 2003-Ohio-5770.)

Per curiam opinion.

Prohibits Mahoning County Probate Court Judge Timothy P. Maloney from ordering county commissioners into his court for a hearing on the court's 2004 budget, and directs Maloney to cooperate with the commissioners' normal hearing process in developing the probate court budget for fiscal 2004.

In Prohibition. Writ granted.

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

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

DECEMBER 2003

***DeWeese v. Zaino*, case no. 2002-1276.**

(Web cite 2003-Ohio-6502.)

Opinion by Justice Resnick; dissent by Justice Pfeifer.

When the state tax commissioner reassesses the valuation of a multi-county property, affected county auditors have legal standing to appeal to the Board of Tax Appeals only those valuation issues addressed in the commissioner's final determination.

Board of Tax Appeals Nos. 02-A-144, 02-A-145 and 02-A-327.

Decision affirmed.

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

concur.

Pfeifer and Lundberg Stratton, JJ., dissent.

Leon v. Boardman Twp., case no. 2002-1955.

(Web cite 2003-Ohio-6466.)

Opinion by Justice Resnick.

An employee whose grievance is arbitrated between an employer and a union under a collective bargaining agreement does not have standing to appeal the outcome of that arbitration in court unless the collective bargaining agreement specifically gives individual employees the right to submit disputes to arbitration.

Mahoning App. No. 01CA235, 2002-Ohio-5371. Judgment affirmed.

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

State v. Campbell, case no. 2003-0045.

(Web cite 2003-Ohio-6804.)

Opinion by Justice O'Connor.

In a case involving a charge of driving under the influence, the prosecutor's amendment of the charge from one subparagraph to another subparagraph of the same Revised Code subsection does not change the name or identity of the charged offense within the meaning of Ohio's Rules of Criminal Procedure.

Hamilton App. No. C-010727, 2002-Ohio-6064. Judgment affirmed.

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

O'Donnell, J., concurs in judgment only.

Asher Sweeney: In Memoriam

A former Supreme Court justice who was known for his charm and common sense approach to the law is fondly remembered by family, colleagues and staff as the quintessential public servant.

Asher Sweeney, known to friends and family as "Ash" and to Ohio voters as A. William Sweeney, died in December. He was 83.

Raised from humble beginnings in the fields of northeast Ohio, Sweeney served his country and his state for more than 50 years, from the battlefields of Guadalcanal to the courtroom of the state's highest court.

Even after his retirement from the court in 1994 at the age of 74, Sweeney surprised some by continuing his public service, taking an appointment by Chief Justice Thomas Moyer as a commissioner for the Ohio Court of Claims helping to administer the Victims of Crime Compensation Fund.

"That was the way Dad was; his entire life was in public service," said Sweeney's son, Randall Sweeney. "He was offered hundreds of thousands of dollars by law firms for his name to appear on their stationery, but he elected to continue his public service. Dad believed that there was a remedy for every wrong."

Sweeney served on the Supreme Court from 1977 until 1994, when he was forced to retire because he was over the mandatory retirement age of 70. From 1985 until his retirement, Sweeney was the senior justice on the Court, serving under four chief justices. He started under former governor C. William O'Neil, who died in 1978 and was temporarily replaced

by Justice Robert E. Leach. Leach was replaced later that year by Frank D. Celebrezze, who won the election to serve out O'Neil's unexpired term. Celebrezze was defeated in 1986 by the current Chief Justice, Thomas Moyer.

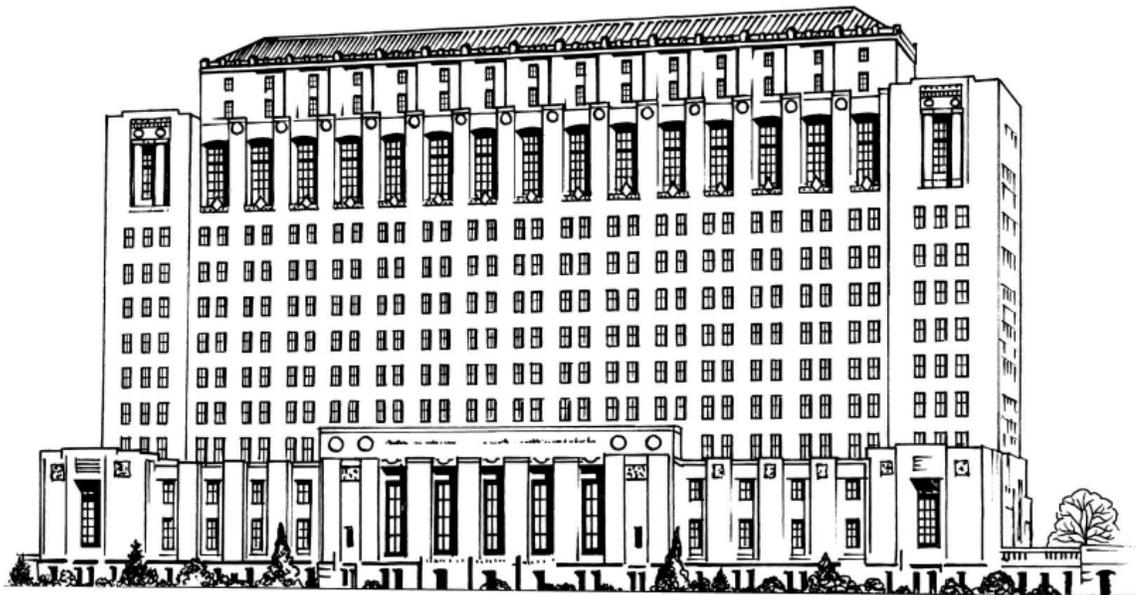
"Asher Sweeney was a close associate and friend," said Chief Justice Moyer. "His years of experience and his common sense made him a valuable member of the Supreme Court. Justice Sweeney was a strong supporter of many of the court's initiatives to improve the administration of Ohio's courts and raise the ethical standards for lawyers and judges."



In the early 1990s, when the General Assembly passed bills that restricted tort claims for workplace injuries, Sweeney authored two high-profile decisions, *Brady v. Safety-Kleen Corp.* (1991) and *Sorrell v. Quality Stores* (1994), in which a divided court declared several of the new laws unconstitutional. In 1994, Sweeney was part of the majority that narrowly upheld a series of controversial last-minute commutations of death sentences by then-Gov. Richard F. Celeste (*State ex. rel. Maurer v. Sheward*).

Randall Sweeney said his dad collapsed while preparing to go to a reception in Columbus for his retirement from the Court of Claims. After 24 days at Jewish Hospital North in Cincinnati, he died with family by his side.

Asher Sweeney's wife, Bertha died in 1998. He is survived by sons Randall, Ron and Gary, and daughter Karen Cody.



The Ohio Judicial Center,
Home of the Supreme Court of Ohio and Affiliated Offices,
February 2004.



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The Ohio Judicial Center

65 South Front Street

Columbus, Ohio 43215.3431

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