

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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July 17, 2025

**113730** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
COD PROPERTIES OHIO LLC v BLACK TIE TITLE, LLC, ET AL.

Affirmed in part, reversed in part, and remanded.

Lisa B. Forbes, J., and Michelle J. Sheehan, P.J., concur; Sean C. Gallagher, J., concurs (with separate concurring opinion).

**KEY WORDS:** *Breach of fiduciary duty; conversion; civil theft; treble damages; attorney fees; final appealable order; summary judgment; trial; jury verdict; punitive damages; judgment notwithstanding the verdict; JNOV; compensatory damages; court costs; Civ.R. 60(A); foreclosure; sheriff's sale; real property; civil theft of real property; sufficiency of the evidence; R.C. 2315.21; R.C. 2307.61; R.C. 2913.02.*

*The trial court properly denied the defendants' motion for summary judgment in part with respect to the plaintiff's claims for civil theft, conversion, and breach of fiduciary duty. These claims arose from an agreement in which the defendants undertook to act on the plaintiff's behalf at a sheriff's sale in a foreclosure action, with the intent to acquire real property. The defendants' subsequent actions resulted in the property deed being improperly titled in one of the defendants' names.*

*The denial of summary judgment on these claims was appropriate because it was not based on a pure question of law, but rather on the existence of genuine issues of material fact regarding whether the defendants' conduct constituted civil theft, conversion, and breach of fiduciary duty.*

*The trial court also did not err in denying the defendants' motion for judgment notwithstanding the verdict (JNOV) on the plaintiff's claims for civil theft and breach of fiduciary duty. Real property can be the subject of a civil-theft claim, and the evidence presented at trial, viewed in the light most favorable to the plaintiff, was sufficient to support the jury's finding of breach of fiduciary duty.*

*Furthermore, the trial court correctly denied the defendants' motion for JNOV as to the jury's award of punitive damages. Punitive damages are permissible as part of the compensatory-damage award when a breach of fiduciary duty has been established. However, the trial court erred in denying the defendants' motion for JNOV on the plaintiff's conversion claim, because real property cannot, as a matter of law, be the subject of a conversion claim.*

*The trial court did not abuse its discretion in awarding attorney fees to the plaintiff, because the defendants were the losing party and punitive damages had been awarded on the fiduciary-duty claim. Nonetheless, the trial court did abuse its discretion in granting the plaintiff's motion under Civ.R. 60(A) to "correct" the record by introducing an additional exhibit related to attorney fees that had not been submitted at the attorney-fee hearing and, was therefore,*

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(Case 113730 continued)

**not subject to cross-examination.**

**Apart from the portion of the attorney-fee award based on that improperly admitted exhibit, the trial court did not abuse its discretion in its overall determination of the appropriate attorney fees owed by the defendants. Lastly, the trial court did not abuse its discretion in ordering the defendants to pay all litigation costs, rather than apportioning them between the parties.**

<b>114112</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v JOHN R. HICKS			

Affirmed.

William A. Klatt, J.;\* Eileen T. Gallagher, P.J., concurs in judgment only (with separate opinion); Anita Laster Mays, J., dissents (with separate opinion).

(\*Sitting by assignment: William A. Klatt, J., retired, of the Tenth District Court of Appeals.)

**KEY WORDS: Robbery; grand theft; aggravated menacing; indictment; amendment; Crim.R. 7; merger; allied offenses; ineffective assistance of counsel; sufficiency of the evidence; manifest weight; hearsay; harmless error.**

**The trial court did not err when it permitted the State to amend the indictment. The grand theft and robbery offenses were not allied offenses of similar import subject to merger. Defendant-appellant did not receive ineffective assistance of counsel. The convictions were supported by sufficient evidence and were not against the manifest weight of the evidence. The statement made by an employee was not inadmissible hearsay, but even if it were, its admission was harmless error.**

<b>114332</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
JONITA PRICE, ET AL. v H&M LANDSCAPING CO., INC., ET AL.			

Affirmed.

Eileen A. Gallagher, A.J., Michelle J. Sheehan, J., and Deena R. Calabrese, J., concur.

**KEY WORDS: Negligence; slip-and-fall; snow and ice removal; summary judgment; duty to exercise reasonable and ordinary care; duty to perform according to terms of contract; natural accumulation of snow and ice.**

**The trial court's granting summary judgment to the defendant snow-and-ice-mitigation company was proper in this slip-and-fall negligence case. In a negligence claim, the duty owed by a snow-and-ice-mitigation company is to exercise reasonable and ordinary care and to perform according to the terms of the contract.**

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(Case 114332 continued)

**Plaintiffs' expert report, which attempted to impose a heightened standard of care on defendant, is not well taken. Given the standard of care, plaintiffs failed to demonstrate a genuine issue of material fact for trial regarding whether defendant breached this standard.**

**114364** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
SUSAN PORACH, ADMINISTRATOR FOR ESTATE OF MICHAEL PORACH v  
THE CLEVELAND CLINIC FOUNDATION, ET AL.

Affirmed in part, reversed in part, and remanded.

Anita Laster Mays, J., and Eileen A. Gallagher, A.J., concur; Lisa B. Forbes, J., concurs in part and dissents in part (with separate opinion).

**KEY WORDS:** *Directed verdict; expert witness testimony; standard of care.*

***The trial court did not err by giving a curative instruction rather than excluding the expert witness's testimony. The trial court erred when it granted appellee's motion for a partial directed verdict. The trial court erred when it prevented the appellant and appellant's witnesses from discussing relevant breaches of the standard of care. The trial court's decision in denying appellant's juror's challenge was not in error.***

**114428** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v SEAN K. RIEVES

Affirmed.

Anita Laster Mays, J., Emanuella D. Groves, P.J., and Kathleen Ann Keough, J., concur.

**KEY WORDS:** *Probable cause; probation violator.*

***The trial court did not abuse its discretion when it determined that the appellant was a probation violator, because the appellant waived the probable-cause hearing and admitted to being a violator, and the trial court found competent credible evidence that the appellant violated his community-control sanctions.***

**114458** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
IGOR MIKHELSON v DIRECTOR OHIO DEPT. OF JOB AND FAMILY SERVICES, ET AL.

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Affirmed and remanded.

Michelle J. Sheehan, P.J., Lisa B. Forbes, J., and Michael John Ryan, J., concur.

**KEY WORDS:** *Unemployment benefits; overpayment; fraudulent misrepresentation; R.C. 4141.282(H); R.C. 4141.35(A).*

*The trial court's judgment affirming the decision of the Unemployment Compensation Review Commission was affirmed. Although the claimant asserted that he mistakenly reported his net wages rather than his gross wages, the Commission found that the claimant's claims were unreasonable. Because there was evidence in the record supporting the Commission's decision, we may not substitute our judgment for that of the Commission.*

<b>114476</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
STEWART D. ROLL v GERTBURG LICATA CO., LPA			

Reversed and remanded.

Michael John Ryan, J., and Eileen T. Gallagher, P.J., concur; Sean C. Gallagher, J., dissents (with separate opinion).

**KEY WORDS:** *Arbitration; alternative dispute resolution.*

*Judgment reversed and remanded. The trial court erred in denying appellant's motion to compel arbitration because the parties' agreement allowed for either party to elect to arbitrate the matter.*

<b>114535</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v STEVEN BELL			

Affirmed.

Emanuella D. Groves, P.J., Anita Laster Mays, J., and Deena R. Calabrese, J., concur.

**KEY WORDS:** *Jury instruction; R.C. 2901.05(B)(1); self-defense; burden of production; sufficient evidence; at fault.*

*Judgment affirmed. The trial court did not abuse its discretion when it denied the defendant's request for a self-defense jury instruction where the defendant's self-defense claim was unsupported by sufficient evidence. The defendant did not satisfy his burden of production for the first element of self-defense - that he was not at fault in creating the situation giving rise to the affray - where the record established that he voluntarily entered an encounter with the victim, chose to confront the victim on the victim's own property, and escalated the dispute.*

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<b>114551</b>	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v JEREMY PURPURA

Affirmed.

Sean C. Gallagher, J., Eileen A. Gallagher, A.J., and Kathleen Ann Keough, J., concur.

**KEY WORDS:** *Pandering sexually oriented matter involving a minor; illegal use of minor in nudity-oriented material or performance; possessing criminal tools; R.C. 2907.322; R.C. 2907.323; R.C. 2923.24; sufficiency; manifest weight of the evidence.*

*Affirmed appellant's convictions for pandering sexually oriented matter involving a minor, illegal use of minor in nudity-oriented material or performance and for attempt thereof, and possessing criminal tools. Appellant's convictions were supported by sufficient evidence and were not against the manifest weight of the evidence.*

<b>114573</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
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KARLA TEAGUE v CASSANDRA CARTER, ET AL.

Affirmed.

Emanuella D. Groves, P.J., Anita Laster Mays, J., and Deena R. Calabrese, J., concur.

**KEY WORDS:** *App.R. 16(A)(7); briefs; citation to the record; citation to relevant legal authority.*

*App.R. 16(A)(7) requires an appellant to file a brief that includes assignments of error and arguments in support of each individual assignment of error, supported by citations to the record and relevant case law. When the appellant fails to comply with any of these requirements, the court of appeals is not required to craft appellant's argument nor search for relevant case law on the appellant's behalf to determine reversible error.*

<b>114633</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
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STATE OF OHIO v GRANT GRIER

Affirmed.

Kathleen Ann Keough, J., Michelle J. Sheehan, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *2953.51(D); postconviction relief; ineffective assistance of counsel.*

*Judgment affirmed. Appellant's petition for postconviction relief was properly denied without holding a hearing because appellant*

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(Case 114633 continued)

failed to meet his burden in demonstrating that he received ineffective assistance of counsel. His trial counsel's well-documented medical condition and a single incident where trial counsel failed to remember grounds for a mistrial, that he remembered only moments later, do not demonstrate that trial counsel breached an essential duty to the prejudice of appellant.

<b>114780</b>	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE T.R.			

Affirmed.

Lisa B. Forbes, J., Michelle J. Sheehan, P.J., and Michael John Ryan, J., concur.

**KEY WORDS:** *Parental rights; permanent custody; manifest weight of the evidence; sufficiency of the evidence; plain error; no objection to the magistrate's decision; no transcript; R.C. 2151.414(B)(1); child could not or should not be placed with either parent within a reasonable time; R.C. 2151.414(D)(2); best interest of the child; motion for continuance; App.R. 12(A)(2), App.R. 16(A)(7).*

*This court found no plain error when the juvenile court found clear and convincing evidence to support its finding that at least one of the conditions set forth in R.C. 2151.414(B)(1)(a) through (e) applied and that it was in the best interest of the child to grant permanent custody to the agency. Absent citations to authorities, statutes, or the record, this court declined to address Mother's assignment of error that alleged the trial court abused its discretion when it denied her request to continue the trial date.*

<b>114833</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv, Dom Or Prob
ALEEM SHOLAKH v KAUSHIK SHAH			

Reversed and remanded.

Sean C. Gallagher, J., Eileen T. Gallagher, P.J., and Michael John Ryan, J., concur.

**KEY WORDS:** *Accelerated docket; App.R. 11.1; brief and conclusory; dismiss; dismissal with prejudice; statute of limitations; holiday; R.C. 1.14; Civ.R. 6(A); reversed.*

*Reversed the trial court's decision dismissing the case with prejudice for failing to file the complaint within the applicable statute of limitations. The complaint was permitted to be filed the day after a legal holiday in accordance with R.C. 1.14; Civ.R. 6(A). The case was remanded to the trial court.*

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<b>114863</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
DAVID WEINER v HEIGHTS MEDICAL BUILDING LLC, ET AL.			

Reversed and remanded.

Deena R. Calabrese, J., and Emanuella D. Groves, P.J., concur; Anita Laster Mays, J., concurs (with separate opinion).

**KEY WORDS:** *Political-subdivision immunity; R.C. 2744.01; R.C. 2744.01(G); R.C. 2744.02; R.C. 2744.02(C); Civ.R. 26(F); Civ.R. 16(B); Civ.R. 16(C); Civ.R. 56; abuse of discretion; dispositive motions; summary judgment; motion for leave; final, appealable order; appellate jurisdiction.*

*Judgment reversed and case remanded. The trial court's denial of the City of Cleveland Heights' motion for leave to file a motion for summary judgment on its defense of political-subdivision immunity was a final, appealable order under R.C. 2744.02(C) because it deprived the City of the benefit of its asserted statutory defense. The trial court's denial of leave was an abuse of discretion because the case was less than six months old, discovery was ongoing, all parties had jointly sought to extend the litigation schedule, and allowing dispositive-motion practice would not prejudice the plaintiff.*