

FILED

The Supreme Court of Ohio

DEC 23 2009

CLERK OF COURT
SUPREME COURT OF OHIO

State ex rel. Robert Merrill, Trustee, et al.

Case No. 2009-1806

v.

ENTRY

State of Ohio, Department of Natural Resources, et al.

This cause is pending before the Court as a discretionary appeal and claimed appeal of right. Preliminary to a decision as to whether to accept the discretionary appeals and cross-appeal in this case, the Court requests that the parties brief the following issues:

1. Does the attorney general have standing to appeal a judgment against the State of Ohio if that appeal is contrary to the directive of the governor and the attorney general is not representing an administrative agency?

2. If the answer to the first question is "Yes," is the record in this matter sufficient for this Court to resolve the appeals and cross-appeal, if they are accepted, even though the State of Ohio's assignments of error and briefs were stricken by the court of appeals?

Appellant/cross-appellee State of Ohio's brief shall be filed within 15 days from the date of this order; all other parties may file briefs within 15 days after the State of Ohio's brief has been filed; and the State of Ohio may file a reply within five days thereafter. No extensions of time shall be permitted. The Clerk shall refuse to file any requests for extension of time.

(Lake County Court of Appeals; Nos. 2008L007 and 2008L008)


PAUL E. PFEIFER
Justice

ADC
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