

**THEOBALD ET AL., APPELLEES, v. UNIVERSITY OF CINCINNATI, APPELLEE, ET AL.; SHARMA ET AL., APPELLANTS.**

[Cite as *Theobald v. Univ. of Cincinnati*, 101 Ohio St.3d 370, 2004-Ohio-1527.]

*Courts — Jurisdiction — Immunity — Pursuant to R.C. 2743.02(F), Court of Claims has exclusive jurisdiction to determine whether a state employee is immune from liability under R.C. 9.86 — Court of appeals’ judgment affirmed on authority of Johns v. Univ. of Cincinnati Med. Assoc., Inc. — State employee has no right to participate in the immunity determination proceedings before the Court of Claims or to appeal that determination.*

(Nos. 2002-1815 and 2002-2008 — Submitted March 15, 2004 — Decided April 14, 2004.)

APPEAL from and CERTIFIED by the Court of Appeals for Franklin County, Nos. 02AP-560, 02AP-593, 02AP-597 and 02AP-598.

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{¶1} This consolidated appeal came to this court upon (1) this court’s acceptance of a discretionary appeal and (2) the certification of the Tenth District Court of Appeals that its judgment conflicted with the judgment of the First District Court of Appeals in *Johns v. Horton*, 149 Ohio App.3d 252, 2002-Ohio-3802, 776 N.E.2d 1146.

{¶2} The Tenth District Court of Appeals certified the following question:

{¶3} “Does the employee of a state institution who participates in an immunity determination in the Ohio Court of Claims have standing to appeal the judgment of the Ohio Court of Claims to the Tenth District Court of Appeals?”

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{¶4} The judgment of the court of appeals is affirmed on the authority of *Johns v. Univ. of Cincinnati Med. Assoc., Inc.*, 101 Ohio St.3d 234, 2004-Ohio-824, 804 N.E.2d 19.

{¶5} The answer to the certified question is:

{¶6} Pursuant to our holding in *Johns v. Univ. of Cincinnati Med. Assoc., Inc.*, supra, a state employee has no right to participate in the immunity determination proceedings before the Court of Claims or to appeal that determination.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON, O'CONNOR and O'DONNELL, JJ., concur.

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James P. Sullivan and Douglas C. Holland, for appellees Keith Theobald et al.

Jim Petro, Attorney General, Douglas R. Cole, State Solicitor, Stephen P. Carney, Senior Deputy Solicitor, Michael Gladman, Assistant Solicitor, and Karl W. Schedler, Assistant Attorney General, for appellee University of Cincinnati.

Reminger & Reminger Co., L.P.A., Michael F. Schmitz, Stephen P. O'Keefe, Vincent P. Antaki and Dan M. Newman, for appellants Harsha Sharma and Maureen Parrott.

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