

OHIO CASE SUMMARIES

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Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Jared Wagner at 937-224-3333 or email Jared at jawagner@green-law.com.

Court of Appeals: Sixth District

Case Name: Wickerham v. Progressive Ins. Cos., 2006-Ohio-964

Decided: March 3, 2006 (posted March 3, 2006)

Issue(s): Wrongful Death/Uninsured and Underinsured Motorist

Summary of Opinion: The deceased was a passenger in a motor vehicle involved in a one vehicle accident. As a result of the accident, the deceased's estate received \$50,000.00 from the driver's insurance company, which was that policy's liability limits. The \$50,000 was split evenly between the deceased's mother and father with each receiving \$25,000.00. At the time of his death, the deceased lived with his father and qualified as an insured under his father's insurance policy. The father attempted to bring an underinsured motorist claim based on alleged wrongful death losses under his insurance policy, which had a policy limit for such coverage of \$50,000.00. The father's insurance policy also had a provision stating that the limits of liability for underinsured motorist coverage was to be reduced by the sums paid under liability policies covering persons liable to the insured for causing the insured bodily injury. Thus, because the deceased was an insured under the policy and his estate had received \$50,000.00, the father's insurance company denied the underinsured motorist claim. Consequently, the father brought suit, claiming that his underinsured motorist benefits should only be reduced by the \$25,000.00 he actually received. The Sixth Circuit disagreed finding that because the deceased was an insured under the father's policy, it was proper to limit the father's recovery based upon the entire amount the deceased's estate had received rather than the amount that the father had received.

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As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.