

## 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](mailto:jawagner@green-law.com).**

Court of Appeals: Third District

Case Name: *Foulke v. Beogher*, 2006-Ohio-1411

Decided: March 27, 2006 (posted March 27, 2006)

Issue(s): Child pedestrian/Heightened duty of care

Summary of Opinion: Defendant was driving past an ice-cream truck that was stopped along the right-hand side of the road and struck plaintiff, a ten year old child, after the plaintiff emerged from in front of the truck as defendant was passing it. The third district found that defendant owed plaintiff a heightened duty of care due to the fact that the ice-cream truck put him on notice that there could possibly be children in, near, or adjacent to the roadway. Finding that material issues of fact remained regarding whether defendant breached this heightened duty of care and whether plaintiff was more than fifty percent liable for the accident, the court reversed the trial court's decision granting defendant summary judgment.

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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.