

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: Fifth District

Case Name: *Foss v. Cincinnati Ins. Cos.*, 2006-Ohio-167

Decided: March 31, 2006 (posted April 3, 2006)

Issue(s): Underinsured Motorist/Guest Statute/Conflict of Law

Summary of Opinion: The insured, an Ohio resident, was injured when a vehicle being driven by her husband, also an Ohio resident, was involved in a single car accident in the State of Indiana. The insured sought underinsured motorist coverage, but her insurer, Cincinnati Insurance Company, denied the claim based on Indiana's guest statute, which does not permit spousal claims for injuries. Cincinnati Insurance maintained that Indiana law applied to the accident and under Indiana law the insured was not legally entitled to recover from her husband. On appeal, the insured argued that Ohio law should apply where only Ohio residents were involved in the accident. The Fifth District rejected this argument, applying the holding in *Kurent v. Farmers Insurance of Columbus, Inc.* (1991), 62 Ohio St.3d 242, and finding that Indiana's spousal immunity law prevailed over Ohio law.

GREEN & GREEN, Lawyers represents select insurance clients in all aspects of insurance litigation, from complex coverage questions to more routine torts. We will see to it that your file will be handled only by a competent, seasoned attorney who will work diligently to obtain the best result possible.

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.