

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: State Farm Mut. Auto. Ins. Co. v. Swartz, 2006-Ohio-2096

Decided: April 25, 2006 (posted April 28, 2006)

Issue(s): Subrogation/Failure to Join Necessary and Indispensable Parties

Summary of Opinion: Appellant was struck by a third party driver when he failed to properly stop at a stop sign. As a result, Appellant was pushed into State Farm's insured, who suffered severe damages, of which State Farm paid \$30,000.00. Consequently, State Farm brought an action against Appellant based on its right of subrogation. Appellant moved for dismissal based on State Farm's failure to join the third party driver as a party to the subrogation action. The trial court overruled the motion and the Fifth District agreed holding that State Farm did not have to bring suit against all of the possible tortfeasors. The court also noted that Appellant could have joined the third party driver as a party to the action and the statute of limitations on contribution and indemnification claims would not begin to run against Appellant until judgment has been entered against him. Furthermore, the third party driver did not meet the requirements for a necessary party pursuant to Civ.R. 19(A) because complete relief could be accorded among those already parties to the action. Finally, the Fifth District found that subrogation was proper even though State Farm had failed to present copies of its insurance contract under the principles of equitable subrogation.

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