

## 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: Supreme Court

Case Name: Hedges v. Nationwide Mut. Ins. Co., 109 Ohio St.3d 70,

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

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

Summary of Opinion: The insured's son was killed in a motorcycle accident. The son did not qualify as an insured under the insured's Nationwide Mutual Insurance ("Nationwide") policy, and the Nationwide policy specifically provided that uninsured/underinsured motorist ("UM/UIM") coverage would only be provided where an insured had suffered bodily injury or death. Nevertheless, the insured filed a claim with Nationwide, seeking recovery under the UM/UIM provisions of her insurance policy for the nonphysical, personal damages she had suffered as a result of her son's wrongful death. The applicable version of the UM/UIM law at that time of the insured's son's death was R.C. 3937.18 as amended by House Bill 261, effective September 3, 1997.

The trial court granted Nationwide summary judgment, finding that this version of the UM/UIM statute allowed insurers to exclude wrongful death claims from UM/UIM coverage. The Tenth District Court of Appeals reversed, citing the Ohio Supreme Court's rulings in *Sexton v. State Farm Mut. Auto. Ins. Co.* (1982), 69 Ohio St.2d 431, and *Moore v. State Auto. Mut. Ins. Co.* (2000), 88 Ohio St.3d 27. *Sexton* and *Moore* involved the judicial interpretation of prior versions of R.C. 3937.18. Both *Sexton* and *Moore* held that the versions of R.C. 3937.18 in effect at that time prohibited insurance companies from limiting UM/UIM coverage to those instances involving bodily injury suffered by an insured. The Tenth District held that the R.C. 3937.18 as amended by House Bill 261 had not materially changed since the holding in *Moore* and still did not allow insurance companies

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to exclude wrongful death claims from UM/UIM coverage. The Supreme Court of Ohio disagreed, ruling that the changes to the language in R.C. 3937.18 made by House Bill 261 allow insurance companies to exclude wrongful death claims from UM/UIM coverage.

As a side note, the Court also noted that the legislative notes to the current version of the statute, R.C. 3937.18 as amended by Senate Bill 97, effective October 31, 2001, expressly states the intention of the legislature to supersede the Court's holdings in both *Sexton* and *Moore*.

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