

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: Auto-Owners Ins. Co. v. Merillat, 2006-Ohio-2491

Decided: May 19, 2006 (posted May 19, 2006)

Issue(s): Dual Residency/Available for Regular Use

Summary of Opinion: The insured's minor son was a defendant in a lawsuit arising out of a one car accident. The insurer sought a declaratory judgment that it had no duty to indemnify or defend the minor son on the basis that the insured's son did not qualify as an insured under the policy because he did not reside with the insured. The trial court found that there was no coverage and granted the insurer summary judgment. Reversing the trial court, the Sixth District ruled that a person can have dual residency for the purposes of an insurance policy. Thus, even though the insured's divorce decree had granted his ex-wife custody of their minor son, the son could be considered a "resident" of both houses depending on the underlying factual circumstances regarding the living and visitation arrangements. The court also rejected the insurer's argument that the insured's minor son was not driving a covered auto at the time of the accident. The court listed five factors to be considered in determining whether the auto was available to the minor son for his "regular use" and held that material issues of fact remained on that question.

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.