

## 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: Eighth District

Case Name: Foremost Ins. Co. v. Motorists Mut. Ins. Co., 2006-Ohio-3022

Decided: June 15, 2006 (posted June 15, 2006)

Issue(s): Equitable Contribution/Voluntary Payment

Summary of Opinion: The insured was injured in an automobile accident caused by another driver's negligence. At the time of injury, the insured had a primary policy of insurance through Foremost Insurance Company, and his employer had an underinsured motorist ("UIM") policy with Motorists Mutual Insurance Company. Eventually, Foremost paid its limits to the insured under its policy and brought suit against Motorist for contribution. The trial court granted Motorist summary judgment on the basis that Motorist was not obligated to the insured and that Foremost was a voluntarily payee. The Eighth District disagreed and reversed the trial court on the basis that because the insured was an employee and was driving a temporary substitute for a covered auto at the time of the accident, he qualified as an insured under the terms of the Motorist policy. This finding was made despite a clause in the Motorist policy that excluded coverage for any vehicle owned by an insured but not listed as a covered auto. The Eighth District also held that Foremost was not a volunteer because it had a legal obligation pay the insured's claims. Accordingly, Foremost was entitled to seek contribution from Motorist.

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