

## 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: Fifth District

Case Name: *Enders v. Bell-Haun Sys. Inc.*, 2006-Ohio-3246

Decided: June 23, 2006 (posted June 26, 2006)

Issue(s): Voluntary Acts/Respondeat Superior/Social Host Doctrine  
Company Picnic/Drinking and Driving

Summary of Opinion: Plaintiff sustained personal injuries when she was struck by a motor vehicle being driven by Defendant's general manager as the general manager was leaving Defendant's company picnic. At the time of the accident, the general manager had a blood alcohol level of more than twice the legal limit. Plaintiff brought suit against Defendant arguing that an "Emergency Taxi Fare Provision" in its handbook amounted to a voluntary act that required Defendant to provide taxi transportation for individuals who became intoxicated at company events. The "Emergency Taxi Fare Provision" provided that Defendant, in order to discourage drinking and driving, would reimburse its employees up to \$25.00 a year for taxi fares. The court ruled that this did not amount to Defendant gratuitously undertaking to provide taxi transportation to its intoxicated employees. The court also rejected Plaintiff's contention that Defendant was liable under the doctrine of respondeat superior. Specifically, the Fifth District distinguished the Supreme Court's holding in *Kohlmayer v. Keller*, (1970), 24 Ohio St.2d 10, 11 that an employee was in the course and scope of employment when he sustained an injury "while attending a picnic which [was] sponsored, supervised and paid for by the employer, and which was given by the employer for the purpose of generating friendly relations with his employees," on the basis that *Kohlmayer* dealt with a worker's compensation claim. The court further distinguished *Kohlmayer* because Plaintiff was not the individual injured, but rather the individual who caused the injury, and the injury occurred away from the employer's

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premises. Finally, the court found that the trial court had correctly analyzed the matter under the social host doctrine despite the fact that the company picnic may have benefitted Defendant through improved company morale.

Court of Appeals: Ninth District

Case Name: *Chuparkoff v. Farmers Ins. of Columbus*, 2006-Ohio-3281

Decided: June 28, 2006 (posted June 28, 2006)

Issue(s): Agent Appointment Agreement/Termination/Contract Interpretation

Summary of Opinion: In 1989, Plaintiff entered into an Agent Appointment Agreement (“AAA”) with Defendant, Farmers Insurance of Columbus (“Farmers”), whereby he agreed to become an agent exclusively for Farmers. In 2001, Farmers discovered that Plaintiff had assisted one of his clients in obtaining an insurance policy through Progressive Insurance Company. Accordingly, Farmers terminated Plaintiff’s AAA contract, claiming that Plaintiff had violated the portion of the AAA that prevented Plaintiff from “Switching insurance from [Farmers] to another carrier.” In response, Plaintiff brought suit against Farmers, arguing that “switching” was an ambiguous term that had special significance in the context of the insurance industry. In support of this argument he introduced the testimony of several other Farmers agents who stated that it was an acceptable practice to aid clients in obtaining policies with other insurance carriers in order to keep business on related policies. The Ninth District rejected Plaintiff’s argument and held that the above quoted language in the AAA was unambiguous and found that Plaintiff could not introduce parole evidence as to the meaning of “switching.” Applying the common understanding of the term “switching,” the court found that Plaintiff had engaged in “switching” when he aided a client who had previously had an insurance policy through Farmers in obtaining a policy through Progressive. Thus, the court found that Farmers had proper grounds for terminating its AAA contract with Plaintiff.

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