

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: Seventh District

Case Name: *Marchionda v. Casey*, 2006-Ohio-3489

Decided: June 30, 2006 (posted July 7, 2006)

Issue(s): Prejudgment Interest

Summary of Opinion: Plaintiff was involved in a motor vehicle accident with Defendant, in which Defendant's liability was not disputed. The impact of the accident was minimal, and the vehicles incurred only minor damage. Furthermore, Plaintiff denied injury at the scene of the accident, she did not seek emergency medical treatment as a result of the accident, and she was only 22-years-old at the time of the accident with no known pre-existing conditions relative to her back. However, Plaintiff began experiencing substantial problems with her back subsequent to the accident. At trial, Plaintiff presented evidence from medical professionals that documented her back problems and that attributed these problems to the accident. Defendant failed to provide any evidence contradicting the opinion of these medical professionals.

Plaintiff's initial demand to settle the case was \$75,000. Relying on the low-impact nature of the accident, Appellant's lack of injury at the scene, the fact that she had a three and one-half month gap in her treatment, and her doctors' inability to pinpoint the medical explanation for her complaints, Defendant initially presented a counter offer of \$3,800 to settle and eventually presented a final offer on the morning of trial of \$9,000. Plaintiff rejected this offer and never moved from her \$75,000 demand. The case went to trial, and the jury returned a verdict in Appellant's favor for \$103,823, which was more than ten times Appellee's final offer. After the verdict, Plaintiff moved for prejudgment interest on the basis that Defendant had failed to make a good faith offer to settle the case. The trial court rejected this request, and a majority of the appellate court affirmed the trial court's

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decision, holding that the trial court had not abused its discretion as there was sufficient evidence to support a finding that the Defendant had made reasonable offers to settle given the facts of this case.

One judge dissented from this holding, and would have held that prejudgment interest was proper in this case because of the following: (1) Defendant's negligence was undisputed; (2) there was no evidence that the claimed medical expenses of Plaintiff were unrelated to the aforementioned negligence; (3) the top settlement offer on behalf of Defendant was only thirty-five percent of the medical expenses; and (4) the jury verdict was more than seven times the best settlement offer. Particularly important to the dissenting judge was the fact that Defendant had presented no independent medical evidence whatsoever to support its position.

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