

## OHIO CASE SUMMARIES

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Court of Appeals: Eighth District

Case Name: *Siemientkowski v. State Auto Mut. Ins. Co.*, 2006-Ohio-4122

Decided: August 10, 2006 (posted August 10, 2006)

Issue(s): Frivolous Conduct Sanctions / Homeowner's Policy / Frivolous Appeal Sanctions

Summary of Opinion: In an earlier, unrelated law suit, Plaintiffs received sanctions under R.C. 2323.51 for filing a frivolous law suit. Subsequently, Plaintiffs demanded coverage under their homeowner's insurance policy for the sanctions plus the cost of legal expenses they had incurred in litigating the frivolous lawsuit. State Auto declined Plaintiffs' coverage demand and, Plaintiffs filed suit alleging breach of contract and bad faith denial of insurance coverage. The trial court granted State Auto summary judgment, and the Eight District affirmed this decision. In finding that Plaintiffs were not entitled to coverage, the court held that the State Auto homeowner's policy provided coverage only for physical injury to tangible property or a bodily injury and R.C. 2323.51 sanctions involved neither. Furthermore, the court found that frivolous conduct is not akin to malicious prosecution, libel, slander, or defamation for the purpose of an insurance policy. The court also found that "[i]n fact, there is nothing about R.C. 2323.51 sanctions that would lead a reasonable mind to believe they may be covered under appellants' homeowner's insurance policy." Based upon its findings, and without a motion for sanctions from State Auto, the court imposed sanctions sua sponte on Plaintiffs for filing a frivolous appeal. Accordingly, Plaintiffs were ordered to pay for the reasonable attorney fees and costs that State Auto had incurred because of the appeal.

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