

OHIO CASE SUMMARIES
A SERVICE OF
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Ohio case summaries are brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. Except for holidays, these summaries will be provided Wednesday and Friday of each week. To discontinue receiving this service, please call Jared Wagner at 937-224-3333 or email Jared at jawagner@green-law.com.

Court of Appeals: Eleventh District

Case Name: *Hiller v. OHIC Ins. Co.*, 2006-Ohio-4536

Decided: September 1, 2006 (posted September 5, 2006)

Issue(s): Professional Liability Policy / Underinsured Motorist Coverage / Statute of Limitations

Summary of Opinion: Plaintiff was killed in an automobile accident while she was a passenger on a motorcycle owned and being driven by her husband. At the time of her death, Plaintiff was a registered nurse and had a Professional Nurses Liability Policy (the "Nurse Policy") of insurance with American Casualty Company. Plaintiff's estate settled with the tortfeasor and then brought a claim for Underinsured Motorist ("UIM") coverage under the Nurse Policy. The trial court found that Plaintiff was not entitled to UIM coverage under the Nurse Policy and granted American Casualty summary judgment. On appeal, the Eleventh District affirmed, finding that a clause in the insurance policy excluding personal liability coverage for accidents involving an automobile owned by an insured or an insured's relative was applicable. The appellate court also went on to find that UIM coverage did not arise under law pursuant to R.C. 3937.18 because any coverage for automobile accidents provided by the Nurse Policy was merely incidental and the Nurse Policy did not qualify as an "automobile liability or motor vehicle liability." Finally, the Eleventh District held that the fifteen year statute of limitations in R.C. 2305.06 for bringing an action in contract rather than the six year statute of limitations in R.C. 2305.07 for bringing an action upon liability created by statute applied to an action seeking UIM coverage under R.C. 3937.18.

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.

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Court of Appeals: Twelfth District

Case Name: *Howarton v. Complete Petmart, 2006-Ohio-4561*

Decided: September 5, 2006 (posted September 5, 2006)

Issue(s): Premise Liability / Open and Obvious Doctrine / Known Dangers

Summary of Opinion: Plaintiff tripped and fell over a riser while attempting to purchase cat food. The fall allegedly caused Plaintiff injuries, and she brought suit against the store owner alleging a violation of the duty to maintain the premises in a reasonably safe condition. However, Plaintiff admitted that she had tripped over the very same riser the day before but had been able to stop herself from falling. In affirming summary judgment in favor of the store, the Twelfth District held that there was no need to discuss the open and obvious doctrine because a store owner has no duty as a matter of law with respect to dangers known to its customers.

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