

**OHIO CASE SUMMARIES**  
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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](mailto:jawagner@green-law.com).**

Court of Appeals: Sixth District

Case Name: *Butler v. Minton*, 2006-Ohio-4800

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

Issue(s): Motion in Limine / Failure to Object at Trial / Motion for New Trial / Expert Testimony / Prejudgment Interest

Summary of Opinion: Plaintiffs were injured in a car accident and settled with the tortfeasor prior to trial for \$25,000.00, which was the limit of the tortfeasor's insurance coverage. Plaintiffs sought underinsured insured motorist coverage ("UIM") from Allstate but Allstate denied Plaintiffs' claim based on its assessment that the \$25,000.00 was an adequate amount of recovery. Prior to trial, Allstate filed a motion in limine that sought to exclude the videotaped depositions of Plaintiffs' doctors; however, the trial court denied the motion and Allstate failed to object to the introduction of the deposition testimony at trial. The jury returned a verdict for Plaintiffs in the total amount of around \$200,000.00, and the trial court granted Plaintiffs prejudgment interest of over \$88,000.00. Allstate moved for a new trial on the basis that the testimony of Plaintiffs' doctors should not have been presented to the jury because the doctors did not express their opinions in terms of a reasonable degree of medical certainty. The trial court refused to grant a new trial. Allstate appealed the verdict alleging that the trial court had erred by denying its motion, but the Sixth District refused to consider Allstate's argument because Allstate had waived any objections raised in its motion in limine by failing to object to the introduction of the evidence at trial. Allstate also argued on appeal that the trial court should have granted its motion for a new trial. The Sixth District disagreed, ruling that Plaintiffs' doctors were not required to testify that Plaintiffs' injuries were, to a reasonable degree of medical certainty, caused by the accident because Allstate failed ask the doctors their opinions of the causes of Plaintiffs' injuries. Thus, the trial court's decision not to grant a new trial on the basis of the doctors' testimony was not an abuse of discretion. On the issue of prejudgment interest, the

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appellate court found that Allstate had failed to make a good faith effort to settle the case and affirmed the trial court's decision.

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