

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.

Court of Appeals: Ninth District

Case Name: *Green v. Westfield Natl. Ins. Co.*, 2006-Ohio-5057

Decided: September 29, 2006 (posted September 29, 2006)

Issue(s): Uninsured Motorist Coverage / Exclusions

Summary of Opinion: Plaintiff was involved in an accident while riding as a passenger in an automobile owned and operated by her husband. The accident was caused by Plaintiff's husband's negligence and resulted in injuries to Plaintiff. Both Plaintiff and her husband were insured under the same Westfield automobile insurance policy, which precluded liability coverage for damages caused by family members. Thus, Plaintiff sought uninsured motorist ("UM") coverage based on her inability to collect under the liability portion of the policy; however, the policy also excluded any vehicle owned by a family member from the definition of an uninsured motor vehicle. Based on this exclusion, Westfield denied Plaintiff UM coverage. Subsequently, Plaintiff filed a declaratory judgment action against Westfield, arguing that the exclusion of vehicles owned by family members was impermissible under R.C. 3937.18. The trial court disagreed with Plaintiff, found that the exclusion was valid, and granted Westfield summary judgment. On appeal, the Ninth District affirmed the trial court. First, the appellate court found that the most recent version of R.C. 3937.18 as amended by Senate Bill 97, effective October 31, 2001, is applicable to this action. Second, the court held that the explicit language of R.C. 3937.18 puts no bounds on the exclusions that can apply to UM coverage. According to the Ninth District, R.C. 3937.18 as revised by Senate Bill 97 allows insurance companies and their customers to contract with respect to UM coverage in any manner that they see fit.

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As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.