

**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: Eighth District

Case Name: *Shreves v. Meridia Health Sys.*, 2006-Ohio-5724

Decided: November 2, 2006 (posted November 2, 2006)

Issue(s): Slip and Fall / Premise Liability / Summary Judgment / Admissions by Party Opponent

Summary of Opinion: Plaintiff alleged that she was hurt when she slipped and fell on a puddle of water in the kitchenette near the waiting room of a hospital. The hospital moved for summary judgment, and Plaintiff argued that there was a material issue of fact as to whether the hospital either (1) created the puddle, (2) had actual knowledge of the puddle, or (3) should have known of the puddle. To support her contention that there was material issue of fact, Plaintiff relied on her deposition testimony regarding statements made to her by several unidentified women whom she claimed were employees of the hospital. Plaintiff alleged that such statements were not hearsay because they were admissions made by the hospital's representatives. The trial court granted the hospital summary judgment, finding that Plaintiff had failed to produce any admissible evidence that the hospital either created or had notice of the puddle. On appeal, the Eighth District held that Plaintiff's self serving testimony failed to establish that the unidentified women were agents or employees of the hospital or that their statements concerned a matter within the scope of their employment. This was especially true since Plaintiff was unable to name the women or even describe their status with the hospital. As the party seeking to introduce an alleged admission by a party opponent, Plaintiff had the burden of proving that the unidentified women had an agency relationship with the hospital and that the women had some authority regarding the subject matter of their statements. The appellate court found that Plaintiff's unsupported testimony alleging that the women were hospital employees was insufficient to meet this burden. Thus, Plaintiff's testimony was hearsay, and the Eighth District affirmed the decision of the trial court.

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Court of Appeals: Eighth District

Case Name: Sharp v. Leiendecker, 2006-Ohio-5737.]

Decided: November 2, 2006 (posted November 2, 2006)

Issue(s): UIM Coverage / “vested” rights / *Galatis*

Summary of Opinion: The deceased were killed in an automobile accident in 2002, and their estates brought suit against the tortfeasor and the UM/UIM insurers for the deceased’s employer. At that time, the Ohio Supreme Court’s decision in *Scott-Ponzer* was still the applicable law. Accordingly, the trial court granted the estates summary judgment as to the UM/UIM coverage. The matter proceeded to trial, and the jury returned a verdict in favor of the estates and against the tortfeasor for seven-figures. The UM/UIM insurers appealed the decision to the Eight District. During the pendency of this appeal, the Ohio Supreme Court issued its ruling in *Galatis*, which essentially held that an individual could only recover under his employer’s UM/UIM policy if he/she was in the course and scope of employment at the time of the accident. Thus, the Eight District remanded the matter to the trial court for a determination as to whether the deceased were in the course and scope of employment at the time of the accident. Upon remand, the jury found that the decedents were not in the course and scope of employment, and a verdict was rendered in favor of the UM/UIM insurers. The estates appealed the jury’s ruling, arguing that the application of *Galatis* had destroyed their “vested” right in UM/UIM coverage. However, the Eighth District disagreed, holding that the seven figure damage award had been rendered against the tortfeasor and any rights that may have “vested” only did so with respect to him. There simply was no judgment entered against the UM/UIM carriers.

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