

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: Eighth District

Case Name: *Hutsell v. Allstate Ins. Co.*, 2007-Ohio-276

Decided: January 25, 2007 (posted January 25, 2007)

Issue(s): Burden of Proof / Closing Arguments / “Uncalled Witness Rule”

Summary of Opinion: Plaintiff was injured in a car accident by an uninsured driver, and sought uninsured motorist (“UM”) coverage from Allstate. The only contested issues were the reasonableness, cause, and extent of damage Plaintiff suffered as a result of the accident. At trial, Plaintiff presented expert testimony on these issues, but Allstate did not, instead relying on its cross examination of Plaintiff’s expert. During closing arguments, Plaintiff’s attorney remarked to the jury that Allstate could have conducted an independent medical examination of Plaintiff and could have presented expert testimony rebutting Plaintiff’s expert. Allstate objected to these arguments, but the trial court overruled the objection. On appeal, the Eighth District affirmed the decision of the trial court, holding that trial court did not abuse its discretion by overruling the objection and that the “uncalled witness rule” is not applicable to the Ohio Rules of Civil Procedure.

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.

As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate 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.