

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: Tenth District

Case Name: *Acuff v. Motorists Mut. Ins. Co.*, 2007-Ohio-938

Decided: March 6, 2007 (posted March 6, 2007)

Issue(s): Subrogation Rights / Settlement Agreements

Summary of Opinion: Plaintiff was injured in an automobile accident and received medical payments coverage from Motorists Mutual. In a subsequent law suit, Plaintiff sought recovery from the tortfeasor and additional coverage from Motorists. In response, Motorists brought a cross claim against the tortfeasor, seeking reimbursement for the amounts that it had already paid to Plaintiff under a subrogation theory. Eventually, Plaintiff entered into a settlement with the tortfeasor without the consent of Motorists. The terms of the settlement agreement released the tortfeasor from all claims related to the accident, but stated that the tortfeasor was assigning all of his responsibilities, rights, and defenses in the action to Plaintiff and failed to protect Motorists' subrogation rights. The trial court found that Plaintiff had prejudiced Motorists' subrogation rights by signing the release. Accordingly, Motorists was granted summary judgment on Plaintiff's claim against it, and Plaintiff was ordered to reimburse Motorists for the amounts already paid. On appeal, Plaintiff argued that Motorists had not been prejudiced by the release because he had been assigned all of the tortfeasor's responsibilities in the action. Thus, Plaintiff argued that Motorists could pursue its subrogation rights against him in place of the tortfeasor. Rejecting this argument as a non sequitur, the Tenth District held that Motorist, as a subrogee, held only as good of rights as the Plaintiff. Because Plaintiff had waived all of its claims against the tortfeasor, including Motorists' suborgation claim, Motorists had been prejudiced. In essence, the appellate court held that one cannot be liable to oneself.

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