

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: Sixth District

Case Name: *Frank v. Simon*, 2007-Ohio-1324

Decided: March 23, 2007 (posted March 23, 2007)

Issue(s): Collateral Estoppel

Summary of Opinion: Plaintiff was injured in a motor vehicle accident when she attempted to turn left in front of a vehicle being driven by Defendant. Plaintiff was cited for running a red light and subsequently found guilty of this charge after a full trial. Nevertheless, Plaintiff brought suit against Defendant, alleging that Defendant had operated his vehicle in a negligent manner. Defendant moved for summary judgment, arguing that Plaintiff was collaterally estopped by her conviction from relitigating the issue of whether she violated the red light. Thus, Plaintiff could not have raised a genuine issue of material fact that Defendant was negligent because it had been conclusively determined that Plaintiff entered the intersection where the accident occurred in violation of the red light. The trial court agreed with Defendant and granted summary judgment. On appeal, the Sixth District found that an issue conclusively determined in a criminal case may have preclusive effect in a later civil case despite the lack of strict mutuality between the parties in both cases. The critical factor is whether the party against whom the collateral estoppel is sought had a full and fair chance to litigate the issue in the previous criminal proceeding. Plaintiff had a chance at the criminal trial to call witnesses and present evidence and cross examine the state's witnesses and rebut its evidence. Moreover, the issue of whether the trial light was red was at the time Plaintiff executed her turn was integral to the criminal trial. Accordingly, Plaintiff had a full and fair opportunity to litigate the traffic light's color at the criminal trial, and she was collaterally estopped from challenging the finding made therein that it was red.

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