

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: Eleventh District

Case Name: *Elizabeth Burnett v. Motorists Mut. Ins. Cos.*, 2007-Ohio-1639

Decided: April 6, 2007 (posted April 19, 2007)

Issue(s): Constitutionality of Intra-Family UIM Exclusions

Summary of Opinion: Plaintiff sustained injuries while riding as a passenger in an automobile being driven by her husband. At the time of the accident, Plaintiff and her husband had liability and UIM insurance coverage through Motorists Mutual Insurance Company (“Motorists Mutual”). Her claim for coverage was denied based upon “intra-family” exclusions in the policy. Plaintiff subsequently filed a complaint, but the trial court granted Motorist Mutual summary judgment on the basis of Supreme Court precedent, which held that the applicable versions of R.C. 3937.18(J)(1) and (K)(2) allowed for such exclusions. On appeal the Eleventh District addressed an issue left open by the Supreme Court; whether these statutes violated the equal protection clauses of the Ohio and United States Constitutions. In reversing the trial court’s decision and holding that these statutes violated the equal protection clauses, the appellate court stated that the exclusion in (K)(2) of certain vehicles from the definition of underinsured vehicles created an illogical and arbitrary classification of individuals who are injured but may not recover solely because they are related to and live in the household of the insured.¹ The effect of (K)(2) was to create an exclusion that violates notions of equal protection by defining and limiting the scope of UIM coverage based on the identity of the driver rather than the identity of the vehicle. The Eleventh District also held that such an exclusion had no legitimate interest or rational basis. This holding is in direct conflict with a decision by the Fourth District.

¹ R.C. 3937.18 has since been amended, and the language in R.C. 3937.18(K)(2) relevant to this case was removed from the statute in 2000 by the passage of Senate Bill 267.

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