

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: Fifth District

Case Name: *Estate of Rhome v. USCCS, Ltd. Partnership*, 2007-Ohio-2618

Decided: May 29, 2007 (posted May 30, 2007)

Issue(s): Respondeat Superior / Scope of Employment

Summary of Opinion: Defendant was involved in an accident while delivering packages for U.S. Cargo, killing three individuals and injury a fourth. At the time of the accident, Defendant was intoxicated. The victims of the car accident brought suit against U.S. Cargo, arguing that it was liable under the theory of respondeat superior because Defendant was within the course and scope of employment at the time of the accident. The trial court granted U.S. Cargo summary judgment. On appeal, the Fifth District affirmed the trial court, holding that driving while intoxicated is outside of the course and scope of employment as a matter of law.

Court of Appeals: Twelfth District

Case Name: *Rozzi v. Star Personnel Servs., Inc.*, 2007-Ohio-2555

Decided: May 29, 2007 (posted May 29, 2007)

Issue(s): Negligent Hiring

Summary of Opinion: Plaintiff was attacked by an employee of The Labor Company ("TLC"). The attacker/employee had been recruited by TLC from a homeless shelter and had a criminal record. Plaintiff claimed that TLC was negligent in hiring the attacker/employee without first conducting a background search into his criminal record. The trial court granted summary judgment to TLC on the basis that Plaintiff failed to show

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that TLC had notice of the attacker/employee's criminal history. On appeal, Plaintiff admitted that TLC had no knowledge of the criminal history, but argued that it was TLC's failure to investigate and discover such history that gave rise to liability. Affirming the trial court, the Twelfth District held that there is no general duty under Ohio law to conduct a criminal background check on potential employees.

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