

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: Supreme Court

Case Name: *Welling v. Weinfeld*, 113 Ohio St.3d 464, 2007-Ohio-2451

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

Issue(s): Invasion of Privacy / False Light

Summary of Opinion: The Ohio Supreme Court has extended the tort of invasion of privacy to include recovery against one who places another before the public in a "false light." The elements of this tort are as follows: (a) the false light in which the other was placed would be highly offensive to a reasonable person and (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

Court of Appeals: Second District

Case Name: *GNFH, Inc. v. W. Am. Ins. Co.*, 2007-Ohio-2722

Decided: June 1, 2007 (posted June 5, 2007)

Issue(s): Duty to Defend / Ohio Public Policy / Coverage for intentional torts

Summary of Opinion: Plaintiff brought sought recovery against Defendants based on allegations arising out of improper touching and comments Plaintiff was subjected to during employment. Defendants sought a defense and indemnity from their insurer. The insurer denied a defense to some of the Defendants, arguing that the claims against those defendants were intentional torts. The trial court agreed with the insurer and held that Ohio law precluded coverage for such torts. On appeal, the Second District engaged in a lengthy analysis of the Supreme Court precedent on the subject of the Ohio public policy

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that prevents insurance companies from insuring intentional torts and relieves them from the duty to defend for such torts. Specifically, the Second District drew a distinction between “direct intent” intentional torts where the actor intends to bring about the result desired, and “substantial certainty” intentional torts where the actor intentionally does something that is substantially certain to bring about a result, but does not intend the result. According to the Second District, it is against Ohio public policy to insure for “direct intent” torts, but not against public policy to insure for “substantial certainty” torts. Finding that at least some of the claims raised against Defendants did not involve “direct intent” torts, the Second District held that the trial court erred in granting summary judgment based on public policy and that a review of the relevant policy provisions would be necessary to determine the extent of coverage. Upon review of the policy provisions, the appellate court held that the insurer had a duty to defend allegations based on bodily injury arising from physical assaults and battery.

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