

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: *Zappitelli v. Miller*, 114 Ohio St.3d 102, 2007-Ohio-3251

Decided: July 11 2007 (posted July 11, 2007)

Issue(s): Ability to Collect Attorney Fees in a Fraud Action

Summary of Opinion: At trial, the jury awarded Plaintiffs aggregate damages of \$134,500 for fraud, breach of contract, and negligence. During deliberations, the trial court instructed the jury that they could not award attorney fees unless they also found that punitive damages were appropriate. On appeal, the Eighth District reversed the trial court's decision, holding that attorney fees are recoverable as compensatory damages in a tort action for fraud. However, the Supreme Court reversed the appellate court's decision and affirmed the trial court, stating that attorney fees may be awarded as an element of compensatory damages only where the jury finds that punitive damages are also warranted.

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As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.