

OHIO CASE SUMMARIES

A SERVICE OF

GREEN & GREEN, LAWYERS
A Legal Professional Association

Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Travis Vieux at 937-224-3333 or email Travis at tjvieux@green-law.com.

Court of Appeals: Fifth District

Case Name: Piening v. Enterprise Rent-A-Car
(2007-Ohio-4709)

Decided: September 14 , 2007 (Posted September 14, 2007)

Issue: Insurance Contract Interpretation

Summary of Opinion: The First District held that regardless of the existence of policy ambiguity, insured would have been entitled to coverage as there was no material breach of the insurance contract.

Elveta Piening rented a car from Enterprise Rent-A-Car in Cincinnati to drive to Georgia with her granddaughter, Yvette Silvers, Silvers' boyfriend Thomas Hodge, and Silvers' children to attend a wedding. Silvers, Hodge and the children did not reside with Piening. At the time of the rental, Piening also purchased personal-accident insurance (PAI) and supplemental liability-protection insurance (SLP). The rental agreement was a multi-part pre-printed form contract. Under "Authorized Drivers," the computer automatically printed "No Other Drivers Permitted." However, the Enterprise sales representative wrote Silvers' name above and "w/ valid DL" to the left and not directly following each other. There was a space for the age and license number of other authorized drivers, but neither was completed and Silvers' was not even present when

GREEN & GREEN, Lawyers represents select insurance clients in all aspects of insurance litigation, from complex coverage questions to more routine torts. We will see to it that your file will be handled only by a competent, seasoned attorney who will work diligently to obtain the best result possible.

As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court 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.

the vehicle was rented. Enterprise was “casual” in authorizing additional drivers and generally anyone over 21 with a valid license could be added without any additional rental fees or charges for additional insurance.

Piening only drove the car home from Enterprise. Silvers drove for some short period of time, but Hodge, who was over 21 and had a valid license, was driving at the time of the motor vehicle accident in which Piening died and the children were seriously injured.

Piening’s estate and guardian of the children sought coverage under the policies purchased by Piening with the rental of the car. Enterprise moved for summary judgement. Relying on an exclusion that the policies were void if the vehicle was operated in violation of the rental agreement, Enterprise argued that the liability coverage was void because Piening had breached the rental agreement by allowing Hodge to operate the rental car. The estate and the guardian moved for summary judgment in opposition.

The trial court entered summary judgment for the estate and guardian holding that there was ambiguity in the rental agreement concerning who was permitted to drive the rental car and thus construed it against Enterprise, the drafter. The court found that anyone with a valid license was authorized to drive the car under the agreement and Hodge had a valid license, therefore Piening did not breach the agreement.

The First Circuit agreed with the trial court and added that Enterprise’s practice of readily authorizing additional drivers without ever seeing them or even their driver’s licenses supported the interpretation that anyone with a valid license was authorized to operate the vehicle.

Further, the Court found that regardless of the ambiguity, that the coverage would not have been void because Piening did not materially breach the agreement. In order for the breach of contract to void the coverage, the breach must have been material and prejudiced Enterprise. Where Enterprise did not charge any fees for adding additional drivers, the cost of the insurance was not increased by having additional drivers and Enterprise’s practice of readily adding anyone over 21 with a valid license, Enterprise was not prejudiced by Hodge driving the car.

GREEN & GREEN, Lawyers represents select insurance clients in all aspects of insurance litigation, from complex coverage questions to more routine torts. We will see to it that your file will be handled only by a competent, seasoned attorney who will work diligently to obtain the best result possible.

As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court 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.