

**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](mailto:jawagner@green-law.com).**

Court of Appeals: Supreme Court

Case Name: *Miller v. Erie Ins. Co.*, 2008-Ohio-515.

Decided: February 11, 2008 (posted February 11, 2008)

Issue(s): UM/UIM Coverage / Miscellaneous Vehicle Exclusion

Summary of Opinion: Plaintiff was a passenger in a vehicle that was involved in a motor vehicle accident after it swerved to avoid the defendants, who were bicycling in the road. Despite extensive discovery and a pre-trial mediation, the case was not settled. At trial, the jury awarded Plaintiff \$175,000 for her injuries. Plaintiff then filed a motion for a hearing on prejudgment interest pursuant to R.C. 1343.03(C). Attached to her motion were documents regarding discovery and the parties' settlement negotiations. The trial court denied Plaintiff's motion without conducting a hearing. On appeal, the Eleventh District reversed, holding that prejudgment interest was appropriate and that the trial court had erred in denying such interest. Thus, the Eleventh District remanded for the trial court to determine the amount of prejudgment interest. Subsequently, the Supreme Court granted discretionary jurisdiction and held that prior to ruling on the merits of a motion for prejudgment interest pursuant to R.C. 1343.03(C), a trial court must set a date certain for an evidentiary hearing. However, the Court also stated that the trial court has the discretion to determine the nature of the evidentiary hearing to be held, as it is in the best position to select the evidence necessary to make the findings required by R.C. 1343.03(C) and determine whether an award of prejudgment interest is proper. Therefore, a court in some instances may decide that presentation of evidence by affidavits, depositions, and other documents is sufficient; at other times, the trial court may decide that an oral evidentiary hearing is more appropriate.

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 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.