

OHIO CASE SUMMARIES

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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 Sean McCormick at 937.224.3333 or send an email to smccormick@green-law.com.

Court of Appeals: Ninth Appellate District

Case Name: *Allstate Ins. Co. v. Jaeger*, 2009-Ohio-5756

Decided: November 2, 2009

Issue(s): R.C. § 3109.09 and Negligent Supervision

Summary of Opinion: Fifteen-year-old M.J. Jaeger visited his cousin's house, got drunk, and left the home in a car belonging to someone else. He did not have permission to drive the car, he did not have a driver's license, and he had never driven a car before that night. Eventually, M.J. lost control of the car and wrecked it, damaging a garage and a fence belonging to insureds of Allstate Insurance Company (Allstate).

Subsequently, Allstate sued M.J.'s mother, Jeanne Jaeger, alleging vicarious parental liability under R.C. § 3109.09(B) and common-law negligent supervision. The trial court granted Jaeger's motion for summary judgment on all claims and Allstate appealed.

First, the Ninth District Court of Appeals explained that Ms. Jaeger may not be held liable for damage caused by M.J.'s joyriding in a stolen car unless he also intentionally caused the subsequent damage to it. Although the parties agreed that M.J. stole the car and drove it without a license, the court held that his mother could not be found liable under the willful acts provision of R.C. § 3109.09(B) because he did not intentionally drive the car into the garage and the fence.

Second, the court explained that when M.J. stole the car he committed a "theft offense" under R.C. § 3109.09(B), and he potentially subjected his mother to liability. However, although the statute did provide a remedy for the damage to the stolen car, it

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did not provide recourse to the owners of the garage and the fence that were damaged as a result of the crash. Therefore, since the car did not belong to an Allstate insured, it could not maintain an action under the statute.

Thirdly, the court acknowledged that Ms. Jaeger could be held liable for her child's wrongful act if the injury committed by M.J. was a foreseeable consequence of her negligence. However, in this case, Ms. Jaeger had informed the court that her son had never committed an act like this before, he had never driven a car, and she had talked to him on the evening of the accident and was not concerned. As a result, the court concluded that she did not know, nor should have known, that injury to another was a likely outcome of her son's actions that night.

The judgment of the trial court was affirmed.

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