

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: Supreme Court of Ohio

Case Name: *State Farm Mut. Auto. Ins. Co. v. Grace*, 2009-Ohio-5934

Decided: November 18, 2009

Issue(s): UM/UIM Coverage and Medical Payments Coverage

Summary of Opinion: The United States District Court for the Northern District of Ohio certified the following question of state law to the Supreme Court of Ohio: Under R.C. § 3937.18, may an insurance carrier decline to pay medical expenses pursuant to uninsured and underinsured (“UM/UIM”) coverage when those same medical expenses have previously been paid or will be paid pursuant to the medical payments coverage in the same policy?

The foregoing question arises from the following factual history. Multiple individuals (“the insureds”) were involved in separate automobile accidents with uninsured motorists. At the time of the accidents, each insured had purchased an automobile insurance policy issued by either State Farm Mutual Automobile Insurance Company or State Farm Fire & Casualty Company (“State Farm”) that included both UM/UIM coverage and medical payments (“Med Pay”) coverage in the same policy. Each claimant submitted a request for payment of medical expenses under both the UM/UIM and Med Pay coverages.

State Farm declined to pay medical expenses under the UM/UIM coverage, claiming the expenses had already been paid under the Med Pay coverage of the same policy. Several of the claimants joined together to file a class action against State Farm, and two others filed individual putative class actions. All actions sought to represent a class of persons composed of all residents of Ohio who: 1) were insured persons under a policy of

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insurance issued by State Farm that included UM/UIM coverage and Med Pay coverage for which State Farm charged separate premiums; 2) were insured under State Farm's standard policy forms that included a "non-duplication" clause; and 3) suffered a bodily injury for which State Farm refused to provide Med Pay benefits under both the UM/UIM and Med Pay portions of the policy.

Although it had previously rejected the efforts of insurers to contractually limit their liability under the UM/UIM portions of their policies, the Supreme Court of Ohio explained that R.C. § 3937.18 had been amended to permit insurance providers to limit coverage so as to preclude payment pursuant to UM/UIM coverage for medical expenses that have previously been paid or are payable under the medical payment coverage in the same policy. This change superseded previous Court decisions construing earlier versions of the statute.

The Court answered the certified question of state law in the affirmative.

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