

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: First Appellate District

Case Name: *Wilson v. Ohio Cas. Ins. Co.*, 2009-Ohio-6798

Decided: December 30, 2009

Issue(s): Duty of good faith to an insured

Summary of Opinion: On July 29, 2002, Joseph Wilson was driving a vehicle for his employer, D&E Electric, Inc. ("D&E"), when he was injured in a crash with Donte Howard. D&E had a policy with Ohio Casualty that included coverage for damages caused by uninsured and underinsured motorists. It was undisputed that Wilson was an insured under the policy's UM/UIM provisions.

On January 3, 2007, Ohio Casualty sent Wilson's attorney a letter acknowledging that Wilson was pursuing an UM/UIM claim. The letter stated that the company had been made aware of Wilson's injuries on August 12, 2002, but that it had been advised that Wilson was proceeding through the Ohio Bureau of Worker's Compensation and would not be pursuing a claim against D&E's auto policy. Despite this knowledge of Wilson's injuries, Ohio Casualty had never provided him with a copy of the D&E policy, nor had it informed him of the time limitation clauses in it.

On July 22, 2008, Wilson filed a complaint seeking a declaration that he was entitled to coverage under the Ohio Casualty policy. Ohio Casualty argued that Wilson's claim was barred by a clause in the policy requiring an injured to allege a claim for UM/UIM coverage within three years of an occurrence. The trial court granted Ohio Casualty's motion for summary judgment and Wilson appealed.

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The First District Court of Appeals concluded that an insurer owes an insured a duty of good faith, and if the insurer remains silent about a limitations period in the face of a potential claim, as in this case, it violates that duty. The court was unpersuaded by Ohio Casualty's argument that it was under the impression that Wilson would forgo any UM/UIM claim in favor of a workers' compensation action. The court explained that this "stated assumption" did not relieve Ohio Casualty of its duty of good faith to Wilson because only with full knowledge of his options could Wilson have effectively chosen among his available remedies.

Moreover, the court concluded that the notice requirement contained in the policy applies not only to the policyholder, but to a third-party beneficiary, such as Wilson, as well. The court reasoned that to restrict the notice requirement to the policyholder would allow Ohio Casualty to effectively ignore the duty it has to its other insureds.

Lastly, the court explained that its holding did not require Ohio Casualty to inform every insured of the shortened limitations period, but that it must do so only when it is notified that an insured has a claim under the UM/UIM provisions of the policy. Since Ohio Casualty had obtained such notification in this case, it had a duty to notify Wilson of the limitations period, which it failed to do.

The judgment was reversed and remanded.

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