From: John Travis
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Subject: Gallagher Sharp Newsflash: 3 Insurer Wins in Ohio

On May 20, 2008, the Supreme Court of Ohio, by a six-to-one majority, rendered judgments in favor of two insurers in separate uninsured motorist (UM) cases. In a third UM case decided today, May 21, 2008, the court, by a vote of four-to-three, found in favor of the insurer.

In *Advent v. Allstate Ins. Co.*, the high court construed two amendments to the Ohio UM/UIM statute–S.B. 97 and S.B. 267--and concluded that insurers essentially can amend their policies at will at the beginning of new policy periods. At issue were S.B. 97 (which makes the offering for UM/UIM coverage optional) and S.B. 267 (which allows changes in policy coverages within a two-year guarantee period). The policyholder sought $300K in UIM limits by operation of law but the insurer argued that only $100K was available. Based on the facts, dates, and law, the court found in favor of the insurer. The court held that policy changes are permitted on or after October 31, 2001 (the effective date of S.B. 97) within the policy's two-year guarantee period on or after September 21, 2000 (the effective date of S.B. 267).

The opinion may be viewed at:
http://www.sconet.state.oh.us/rod/docs/pdf/0/2008/2008-ohio-2333.pdf

In *Wohl v. Swinney*, the Supreme Court decided that the term "insured" may unambiguously be defined as "[a]ny person occupying your covered auto who is not a named insured or insured family member for uninsured motorist's coverage under another policy." The plaintiff in this case sought UIM coverage from Motorists Mutual, the insurer of the auto he was driving. But the plaintiff had his own UIM coverage, so Motorist denied his claim, arguing that he did not qualify as an insured based upon the foregoing definition. The Supreme Court agreed and concluded that insurers may deny insured status to vehicle occupants who have UM coverage under another policy.

The opinion may be viewed at:
http://www.sconet.state.oh.us/rod/docs/pdf/0/2008/2008-ohio-2334.pdf

The third case is *Rogers v. City of Dayton*. The high court in that case interpreted a prior version of the Ohio UM statute which provided that an uninsured motor vehicle is NOT one that is self-insured. The trial and appellate courts decided that an insured could pursue a UM claim against his own insurer after being injured by a Dayton city employee, but the Supreme Court of Ohio disagreed. Because the UM statute and the policy of insurance excluded self-insured vehicles from the definition of an uninsured or underinsured vehicle, the insurer was not liable.

This opinion may be viewed at:
http://www.sconet.state.oh.us/rod/docs/pdf/0/2008/2008-ohio-2336.pdf

These three cases reaffirm that Ohio remains an insurer-friendly state.

If you have any questions, please call, write, or email:

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