



August 2, 2010

Re: New Ohio Supreme Court Decision on Recoverability of Attorney-Fee Award under an Insurance Policy

The Ohio Supreme Court recently decided an important case, regarding the availability of an attorney-fee award under a policy of automobile liability insurance. A link to obtain a copy of the decision in *Neal-Pettit v. Lahman*, 125 Ohio St.3d 327, 2010-Ohio-1829, is below:

- [*Neal-Pettit v. Lahman, 2010-Ohio-1829*](#)

Plaintiff was injured in an automobile crash. The other driver was intoxicated, and fleeing the scene of an earlier collision. The jury awarded compensatory and punitive damages, as well as attorney fees. The Defendant's insurer, Allstate, paid the compensatory damages, but denied payment of the punitive damages and attorney fees because the policy specifically excluded payment of "punitive damages." Plaintiff filed suit against Allstate for payment of the attorney fees. The insurer argued because the policy specifically excluded payment of "punitive damages" it was not liable to pay attorney fees. Allstate argued it would only pay damages arising from bodily injuries, and that payment of punitive damages and attorney fees were against public policy.

The Ohio Supreme Court held the Allstate policy excluded the punitive damage award, but did not exclude attorney fees. The Supreme Court concluded the policy did not specifically exclude the payment of attorney fees, and public policy did not preclude an insurance company from covering attorney fees on behalf of an insured, even when those fees are awarded solely as the result of an award for punitive damages. The Supreme Court ruled payment of attorney fees is not prohibited by Ohio Revised Code §3937.182(B). This section prohibits insurance coverage for "punitive or exemplary damages" on public policy grounds. The Supreme Court reasoned that since the statute mentions only punitive and exemplary damages, the statute was not intended to bar recoverability of attorney fees under a policy of insurance.

CINCINNATI

600 Vine Street • Suite 2600
Cincinnati, Ohio 45202
(513) 579-0080
Fax: (513) 579-0222

COLUMBUS

65 E. State Street • Suite 2000
Columbus, Ohio 43215
(614) 469-7130
Fax: (614) 469-7146

DETROIT

39555 Orchard Hill Place • Suite 600
Novi, Michigan 48375
(248) 374-5020
Fax: (248) 348-5760

FT. MITCHELL, KY

300 Buttermilk Pike • Suite 324
Ft. Mitchell, Kentucky 41017
(859) 547-1200
Fax: (859) 547-1219