

OPINIONS OF THE SUPREME COURT OF OHIO

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Borsick et al., Appellants and Cross-Appellees, v. State Farm Mutual Automobile Insurance Company, Appellee and Cross-Appellant.

[Cite as Borsick v. State Farm Mut. Auto. Ins. Co. Ohio St. 3d .]

Insurance -- Underinsured motorist coverage -- Wrongful death claim -- Each person entitled to recover under R.C. 2125.02 has separate claim subject to any per accident limit -- Insurers may contractually preclude intrafamily stacking but may not contractually preclude interfamily stacking -- Underinsurance claim must be paid, when -- Each person who is covered by an uninsured/underinsured policy has a separate claim subject to a per person policy limit.

(No. 93-1066 -- Submitted November 10, 1993 -- Decided December 29, 1993.)

Appeal from the Court of Appeals for Erie County, No. E-92-26.

Murray & Murray Co., L.P.A., Dennis E. Murray, Sr., and Kirk J. Delli Bovi, for appellants and cross-appellees.

Meyers, Hentemann, Schneider & Rea Co., L.P.A., and Henry A. Hentemann, for appellee and cross-appellant.

Pursuant to Savoie v. Grange Mut. Ins. Co. (1993), 67 Ohio St. 3d 500, N.E.2d , the judgment of the Court of Appeals for Erie County is reversed.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

Moyer, C.J., concurring separately. I concur separately in the judgment entry in the above-styled case. As my dissent in Savoie v. Grange Mut. Ins. Co. (1993), 67 Ohio St.3d 500, N.E.2d , stated, I do not agree with the law announced in the majority decision. Nevertheless, it is the law on the issue in the above-styled case. As I believe all parties should receive equal application of the law announced

by this court, and only for that reason, I concur in the judgment entry.

Wright, J., dissenting. I must dissent in continuing protest to the majority's sundry holdings in *Savoie v. Grange Mut. Ins. Co.* (1993), 67 Ohio St.3d 500, 620 N.E.2d 809. As stated in the dissent in *Savoie*, that holding lacks sound reasoning, reverses ten years of established case law and flaunts the will of the General Assembly. Thus, I feel compelled to remain in this posture until the General Assembly has had the opportunity to undo the damage caused to the public by this unfortunate, result-oriented decision.