

OPINIONS OF THE SUPREME COURT OF OHIO

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Newman et al., Appellants, v. United Ohio Insurance Company, Appellee.

[Cite as Newman v. United Ohio Ins. Co. (1994), 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. 92-1875 -- Submitted December 15, 1993 -- Decided January 19, 1994.)

Appeal from the Court of Appeals for Lawrence County, No. 91 CA 26.

David Reid Dillon, for appellants.

Mark P. Seitzinger, for appellee.

Nurenberg, Plevin, Heller & McCarthy Co., L.P.A., and Andrew Krembs; and Robert P. Rutter, urging reversal for amicus curiae, Ohio Academy of Trial Lawyers.

Hamilton, Kramer, Myers & Cheek and James R. Gallagher, urging affirmance for amicus curiae, Ohio Association of Civil Trial Attorneys.

The cause is reversed and remanded on authority of *Savoie v. Grange Mut. Ins. Co.* (1993), 67 Ohio St.3d 500, 620 N.E.2d 809. The trial court is instructed to apply the *Savoie* test to the facts of the case.

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.