

**KEPPEL, APPELLEE, v. JACK KEPPEL ESTATE; NATIONWIDE MUTUAL
INSURANCE COMPANY, APPELLANT.**

[Cite as *Keppel v. Jack Keppel Estate*, 1996-Ohio-403.]

Insurance—Motor vehicles—Pursuant to former R.C. 3937.18, an underinsurance claim must be paid, when—Determining amount of underinsurance coverage to be paid.

(No. 96-312—Submitted July 10, 1996—Decided August 7, 1996.)

CERTIFIED by the Court of Appeals for Lorain County, No. 95CA006157.

Weston, Hurd, Fallon, Paisley & Howley, Timothy D. Johnson and Gregory E. O'Brien, for appellant.

{¶ 1} The Court of Appeals for Lorain County finding its judgment to be in conflict with the judgment with the Court of Appeals for Cuyahoga County in *Vicarone v. Colonial Penn Ins. Co.* (Feb. 23, 1995), Cuyahoga App. No. 66822, unreported, 1995 WL 79789, entered an order certifying a conflict on the following issue:

“May an insurer who insures different members of the same household under one policy of automobile insurance enforce a provision in the policy that provides for a set-off, against the limits of underinsured motorist coverage, of any amount paid to the insured under the liability coverage of the same policy?”

{¶ 2} This court determined that a conflict existed; *sua sponte*, we held the cause for a decision in case No. 94-2569, *Cole v. Holland*, and stayed the briefing schedule.

{¶ 3} We answer the certified question in the negative.

{¶ 4} The judgment of the court of appeals is affirmed.

SUPREME COURT OF OHIO

DOUGLAS, RESNICK, F.E. SWEENEY and PFEIFER, JJ., concur.

MOYER, C.J., and COOK, J., dissent.

STRATTON, J., not participating.
