

Pontzer Modified

By Bill Petro, Vice President - HAS Claims Services

Pontzer Overturned Effective November 2003



In June of 1999, the Ohio Supreme Court held in the case, *Scott-Pontzer v. Liberty Mutual Fire Ins. Co.*, that commercial Underinsured/Underinsured Motorist Coverage extends to non-work related injuries of employees while not working, while pursuing personal matters, and while in a non-covered personal vehicle. This ruling spawned similar cases. For example: *Ezawa v. Yasuda Fire & Marine Ins. Co. of America* allowed for family members of employees to also recover under the employer's Uninsured/Underinsured coverage when the child was injured, among other things, while riding a bicycle. Over the last four years, the Pontzer ruling, and the others that followed, cost insurers hundreds of millions of dollars, caused auto insurers to pull out of the Ohio marketplace, and caused Uninsured/Underinsured rates to soar.

In November of 2003, the Ohio Supreme Court modified this ruling. The *Westfield Ins. v. Galatis* ruling only allows for employees to recover under their employers' Uninsured/Underinsured Motorist Coverage if they were working at the time of the injury. This ruling also completely overruled the Ezawa and other similar decisions. The *Galatis* ruling now places the Uninsured/Underinsured coverage back into its original intent. However, the harm is done and insurers are not able to recoup the hundreds of millions of dollars already paid out.

The Ohio Academy of Trial Lawyers filed a Motion for Reconsideration on the *Galatis* case. The Ohio Supreme Court denied the motion.

