

IN THE SUPREME COURT OF OHIO

NATIONWIDE MUTUAL INSURANCE COMPANY,

Appellee,

Case No.: 2008-1105

vs.

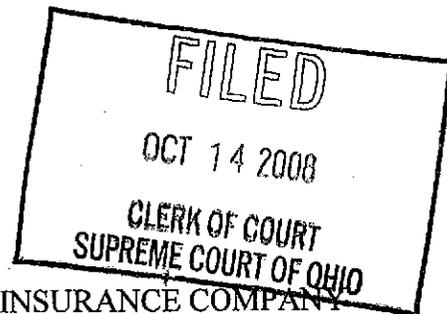
ON APPEAL FROM THE HOLMES COUNTY
COURT OF APPEALS, FIFTH APPELLATE
DISTRICT COURT OF APPEALS CASE NO.:
07-COA-101

LINDA F. GUERARD, et al.,

Appellant

MOTION FOR RECONSIDERATION OF THOMAS L. MASON, EXECUTOR OF
THE ESTATE OF JAMES IVAN BRADY PARKER-GUERARD

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JAMES IVAN BRADY PARKER-GUERARD

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Appellant

MOTION FOR RECONSIDERATION

The Appellant moves the Court to reconsider the decision to decline jurisdiction to hear the case. The Court of Appeals decision did not cite any relevant case law regarding the issue of what constitutes operation, maintenance or use of an automobile.

If this Court declines jurisdiction to hear this case, then the decision of the Holmes County Common Pleas Court, which is clearly contrary to the law, will stand. This would be manifestly unjust. The Ohio Supreme Court is the last line of defense to prevent a lower court from making a decision that is in direct contravention to the law.

In essence, the term "maintenance, operation, or use" of an automobile includes any accident involving an automobile, unless the accident is extremely remote from the automobile, so remote that the vehicle had no nexus at all with the accident.

The child in this case was suffocated when his head became caught in the car window. No one cared enough for this child to watch him when he was playing outside. He still has no headstone for his gravesite. The Appellant is entitled to have the law applied equally to him, even if in life he was not given an equal chance.

CONCLUSION

The Appellant respectfully requests that the Supreme Court of Ohio reconsider its decision to decline jurisdiction to hear this case, in order to prevent manifest injustice.

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CERTIFICATE OF SERVICE

I certify that a copy of this Motion for Reconsideration was sent by ordinary U.S. mail to counsel of the Appellee, Kirk E. Roman, 50 South Main Street, Suite 502, Akron, Ohio 44308, Fred M. Oxley, Counsel for Linda Guerard, Post Office Box 220, Ashland, Ohio 44805, on this 8th day of October, 2008.

MASON, MASON & KEARNS

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