

Weston Hurd Client News - October 2014

The Ohio Supreme Court Unanimously Agrees with Maestle and Farnan that a Person's Domicile is the Home to Which the Person Has the Intention of Returning and One's Domicile is Never Temporary or Transient

In 2012, the Cuyahoga Court of Appeals held that an Ohio born individual who moves to Florida but continues to work in Ohio maintains his Ohio domicile despite his clear intention to relocate his home to Florida.

James Schill, who is in his 80s, moved to Florida over 20 years ago. Over the next two decades, Schill would return to Ohio approximately two weeks per month to run his business. Mr. Schill always intended to return to his Florida residence, where he voted, titled his car, and kept all of his possessions. He owned no real property in Ohio.

Nevertheless, the Eighth District Court of Appeals ruled that Mr. Schill's domicile was in Ohio and, therefore, his adult son, who was in his 50s and who lived in Ohio, was an "insured" under his father's Cincinnati Insurance Company umbrella policy and, therefore, the son had umbrella liability insurance coverage for a fatal auto accident that he caused, while operating his own vehicle, titled in his own name, and for which he had his own State Auto liability insurance.

Shawn Maestle and John Farnan argued in the Ohio Supreme Court that such an individual was actually domiciled in Florida because he had the clear subjective intent to change his domicile to Florida and the objective facts demonstrated a residence in Florida relying on a 1878 decision by the Court, *Sturgeon v. Korte*, 34 Ohio St. 525 (1878). On October 14, 2014, the Supreme Court unanimously agreed with counsel's argument:

"We reiterate this court's previous jurisprudence on the definition of domicile; it is where a person resides, where he intends to remain, and where he intends to return when away temporarily.

"We hold that James's regular work activity in Ohio does not contradict an intent to make Florida his permanent residence, nor does it change the fact of his residence in Florida. James's clear intent was to work part-time in Ohio and be domiciled in Florida. He has meticulously ordered his life to make that so."

If you have questions or concerns about this case or any other matter, please feel free to contact Shawn Maestle or John Farnan.



Shawn W. Maestle is a Partner with Weston Hurd LLP and is the Chair of the firm's Appellate section and a member of the firm's Litigation section. He focuses his practice in the areas of appellate, commercial and real estate, as well as estate planning and probate litigation. Shawn can be reached at 216.687.3254 or SMaestle@westonhurd.com.



John G. Farnan is a Partner with Weston Hurd LLP. He practices primarily in the areas of insurance coverage, personal injury, premises liability, commercial litigation and appellate practice. Since 2006, John has been named an *Ohio Super Lawyer* in Insurance Coverage by Law & Politics Media, Inc. and since 2011, he has been named to the *Best Lawyers in America*. He can be reached at (216) 687-3288 or at JFarnan@westonhurd.com.

For more information about Shawn Maestle and John Farnan, please visit www.westonhurd.com.

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