

***Tankersley, et al. v. Ohio Fair Plan Underwriting Ass'n***  
**Clermont County Common Pleas Court No. 2016 CVH 01033**  
**Judge Haddad**

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**David J. Oberly and Ray C. Freudiger obtained summary judgment on behalf of insurance agent client in fraud action venued in Cincinnati involving dispute over agent's alleged failure to procure insurance coverage for residence which sustained extensive, uncovered fire damage.**

In that case, David and Ray's insurance agent client assisted two homeowners in procuring insurance coverage for their residential property with Ohio FAIR Plan Underwriting Association, a entity created by the Ohio legislature to provide insurance for property that is not insurable in the normal insurance market. After completing an inspection of the property, Ohio Fair Plan issued a notice that the carrier was cancelling the homeowners' insurance contract. In addition, Ohio Fair Plan also issued a refund check to the homeowners as well. Sometime thereafter, a fire occurred at the homeowners' residence. Ohio Fair Plan later determined that the homeowners did not have coverage for the loss as a result of the cancellation of the contract. The homeowners alleged that they never received the cancellation notice or the refund check from Ohio Fair Plan or their insurance agent. The homeowners filed suit against the insurance agent, alleging claims of fraudulent misrepresentation and fraudulent concealment as a result of the homeowners' purported failure to receive the notice or check prior to the time of the fire, which the homeowners alleged would have enabled them to procure alternative coverage. David and Ray moved for summary judgment, arguing that the fraudulent misrepresentation claim lacked merit because the insurance agent never misrepresented any fact relating to the homeowners' insurance coverage, and that the concealment claim lacked merit because the agent never concealed any material fact from the homeowners. The court agreed with David and Ray, finding that the homeowners were unable as a matter of law to satisfy all of the essential elements of their misrepresentation and concealment claims, thus entitling David and Ray's client to summary judgment.