

1 BROCWELL, APPELLEE, V. KING ET AL.; PROGRESSIVE CASUALTY INSURANCE  
2 COMPANY, APPELLANT.

3 [Cite as *Brocwell v. King* (1996), \_\_\_ Ohio St.3d \_\_\_\_.]

4 *Motion for discretionary appeal denied.*

5 (No. 95-2496 -- Submitted March 19, 1996 -- Decided June 19,  
6 1996.)

7 APPEAL from the Court of Appeals for Richland County, No. 95-25.

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9 *Owens & Martin Co., L.P.A., James J. Martin and Timothy L.*

10 *Cardwell*, for appellee.

11 *Roetzel & Andress, Ronald B. Lee and Laura M. Faust*, for appellant.

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13 This cause is before the court on a motion for discretionary  
14 appeal/claimed appeal as of right. The motion is denied.

15 MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, COOK and STRATTON,

16 JJ., concur.

17 DOUGLAS, J., dissents.



1 Am.S.B. 20[,] has in effect nullified the *Savoie* decision and the extent of the  
2 reverberations of that nullification.” Accordingly, it is appellant’s contention that  
3 the *120th* General Assembly, which passed Am.Sub.S.B. No. 20, was declaring  
4 what the “intent” of the *114th* General Assembly was when that General Assembly  
5 passed a predecessor statute to the current version of R.C. 3937.18.

6 Either or both of appellant’s arguments may, or may not, have validity.  
7 Those decisions are left for another day because the threshold issue is whether the  
8 legislation can be applied retroactively. That is all that is presented to us in  
9 appellant’s Proposition of Law No. 1.

## 10 II

11 Appellant’s fourth proposition of law raises the issue of whether an insured  
12 is entitled to *both* liability policy coverage limits *and* underinsured motorist  
13 benefits of the same policy. This issue raises the important question of setoff. I  
14 believe we should decide the question in this context as well as the other contexts  
15 of setoff we are currently considering.

## 16 III

1           Accordingly, I would grant appellant's application seeking us to accept  
2 jurisdiction. These are important issues that need to be decided. Because the  
3 majority does not do so, I respectfully dissent.

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