

## OHIO CASE SUMMARIES

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**Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Jared Wagner at 937-224-3333 or email Jared at [jawagner@green-law.com](mailto:jawagner@green-law.com).**

Court of Appeals: Franklin County Court of Common Pleas

Case Name: Buckeye Ranch, Inc. v. Northfield Ins. Co., 2005-Ohio-5316

Decided: September 30, 2005 (posted January 5, 2006)

Issue(s): Known loss doctrine/Claims-made policy/Occurrence based policy Damages/Reasonable-expectations doctrine

Summary of Opinion: This case began in 1996 when a boy who was sexually assaulted by his roommate while living at The Buckeye Ranch, Inc. ("the Ranch"), a non profit corporation that provides services for children and families suffering from emotional, behavioral, and mental health issues. At the time of the assault, the Ranch had a claims-made general liability insurance policy through Scottsdale Insurance Co. that only provided coverage for those claims brought during the life of the policy. Subsequently, in 1999, the Ranch switched to an occurrence based general liability insurance policy with Northfield Insurance Co. that provided coverage for those claims occurring during the life of the policy. To ensure full coverage, the Northfield policy also included a prior acts endorsement, providing coverage for damages that had occurred during the previous claims-made policy. However, the prior acts endorsement had a precondition to coverage that

In 2002, the boy who was sexually assaulted initiated a claim against the Ranch, which was eventually settled. Prior to this time no civil action against the Ranch had been brought as a result of the sexual assault. In fact, there was no indication that the Ranch was even being considered as a party responsible for the sexual assault. Subsequently, the Ranch filed suit against Northfield, seeking a declaratory judgment that Northfield was

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obligated to indemnify it for defense costs and settlement expenses. The trial court found that the Ranch was entitled to such coverage. In making this ruling the trial court held that

Court of Appeals: Second District

Case Name: Mundy v. Roy, 2006-Ohio-993

Decided: March 3, 2006 (posted March 6, 2006)

Issue(s): Discovery/Bad Faith/Prejudgment interest/Underinsured Motorist Claim

Summary of Opinion: The insured was involved in a car accident in 1999 and was offered a settlement by the tortfeasor's insurance carrier in August of 2000. The insured immediately sought approval of the settlement by his insurance carrier, Allstate, but Allstate did not approve the settlement until approximately two years later. Consequently, the insured brought suit against Allstate claiming bad faith and underinsured motorist ("UIM") coverage. These issues were bifurcated, and a jury awarded the insured \$51,367.35 on the UIM claim. The insured then sought prejudgment interest on the amount the jury had awarded him and, in preparation for the bad faith portion of the trial, made a discovery request to examine Allstate's claims file. In response, Allstate moved for summary judgment on the bad faith claim and a protective order denying the insured's discovery request on the basis that because Allstate had merely disagreed over the value of the insured's UIM claim rather than denying the claim outright, there was no bad-faith cause of action. Allstate claimed that a dispute over the value of a claim cannot support a bad-faith action as a matter of law. The Second District disagreed finding that a bad faith claim could lie where the insurance company disputed the alleged damages, rejected the settlement demand, and compensated the insured only after a jury rendered a verdict against him. The court also found that a bad faith claim could arise out of a dispute over the amount of pain and suffering the insured had suffered and that the trial court had abused its discretion by completely denying the insured prejudgment interest.

Court of Appeals: Fourth District

Case Name: Gustin v. Chaney, 2006-Ohio-1049

Decided: March 2, 2006 (posted March 8, 2006)

Issue(s): Dog Bite/Motion in Limine/Collateral Source Rule

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Summary of Opinion: The Plaintiff/Appellant suffered a dog bite at the hands of the Defendants/Appellants' dog. Liability was stipulated to, and the issue of damages went to trial. The Defendants sought a motion in limine to exclude any evidence of medical bills in excess of the amounts paid by Plaintiff's health insurance carrier. The trial court granted the motion, and no evidence was presented at trial concerning medical bills in excess of the amount paid by Plaintiff's insurance carrier except by her lawyer as a proffer to preserve the issue. The Fourth District overturned the trial court's exclusion of the evidence, ruling that a plaintiff can introduce evidence of the actual amount billed for his/her medical care even if that amount is in excess of the amount negotiated and paid for by his/her insurance carrier. In reaching this decision, the Court considered the collateral source rule, which prevents the reduction of a plaintiff's recovery for payments received and prevents the jury from learning anything about payments from other sources. The public policy behind this rule is that the injured party, rather than the tortfeasor, should benefit from a windfall caused by payment from an outside source. Applying this public policy, the court held that the collateral source rule applies to any amount written off pursuant to an agreement between a plaintiff's insurance carrier and healthcare provider. Thus, the actual amount of the medical bills charged to a plaintiff, regardless of the amount that the plaintiff or the plaintiff's insurance company paid on those bills, may be properly entered into evidence.

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