

## 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: Ohio Supreme Court

Case Name: *Henderson v. Lawyers Title Ins. Corp.*, 108 Ohio St.3d 265, 2006-Ohio-906

Decided: March 15, 2006 (posted March 15, 2006)

Issue(s): Title Insurance/Arbitration

Summary of Opinion: The Eighth District Court of Appeals held that an arbitration provision in a title insurance policy was unenforceable because the title insurance policy was not delivered to the insured until after the policy's effective date. Thus, the appellate court held that there had been no meeting of the minds and that neither the policy of insurance nor the policy's arbitration provision were valid. The Supreme Court disagreed, relying on the principle that a contract of insurance is consummated upon the unconditional acceptance of the application of the insured by the insurer. Therefore, the Court found that a valid contract of insurance was formed when Lawyers Title acceded to the request for a policy of insurance. Nevertheless, the Supreme Court stressed that such a contract of insurance entered into sight unseen by the insured is presumed to contain only those conditions and limitations as are usual and customary in such policies, or have been used before between the parties. The Court then went on to find that arbitration provisions are not usual and customary in title insurance policies. Accordingly, the Court, while upholding the validity of the title insurance policy, found that the arbitration provision in the policy was unenforceable.

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