

OHIO CASE SUMMARIES
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Ohio case summaries are brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. Except for holidays, these summaries will be provided Wednesday and Friday of each week. To discontinue receiving this service, please call Jared Wagner at 937-224-3333 or email Jared at jawagner@green-law.com.

Court of Appeals: Fifth District

Case Name: *QualChoice v. Bhd. Ins. Co.*, 2007-Ohio-226

Decided: January 22, 2007 (posted January 23, 2007)

Issue(s): Subrogation / Third-party beneficiary / Medical Payments Coverage

Summary of Opinion: The insured was injured while volunteering at a church, which had a commercial insurance policy through Brotherhood Mutual Insurance Company ("Brotherhood"). Because of the injury, the insured was entitled to \$5,000 in medical payments coverage under the Brotherhood policy. The insured also had personal health insurance through QualChoice, which paid the entire \$1,115.26 in medical bills incurred by the insured as a result of the fall. More than a year after the accident, QualChoice, as the insured's subrogee, brought a complaint against Brotherhood, seeking reimbursement of for the medical bills and damages for future medical expenses. The trial court granted Brotherhood summary judgment because the terms of its policy provided that bodily injury had to be reported within one year of the accident. On appeal, QualChoice argued that it was not in privity with Brotherhood and that it could not be bound by a time limitation found in a policy that had been entered into between Brotherhood and the church. The Fifth District rejected QualChoice's contention, holding that the insured, as a third party beneficiary, was bound by the terms of the insurance contract between Brotherhood and the church. Likewise, as the insured's subrogee, QualChoice stood in the insured's shoes and it was also bound by the terms of the contract. Thus, the trial court's decision granting Brotherhood summary judgment was affirmed.

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