

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: Tenth District

Case Name: *Bethel Vil. Condo. Assn. v. Republic-Franklin Ins. Co.*, 2007-Ohio-546

Decided: February 8, 2007 (posted February 8, 2007)

Issue(s): Contractual Limitation on Period for Initiating a Claim

Summary of Opinion: Plaintiff's property was damaged in a hailstorm on April 20, 2003. Plaintiff applied for and received close to one million dollars in compensation from its insurer because of damage caused by the storm. Eventually, a dispute arose as to whether the installation of ice guards was covered under Plaintiff's insurance policy. The insurer gave Plaintiff official notice that it was denying coverage for such ice guards by way of letter on February 5, 2005. Subsequently, on February 6, 2006, Plaintiff initiated a declaratory judgment action, seeking a declaration that ice guards were covered under its insurance policy. The insurer moved for summary judgment, arguing that Plaintiff's claim was untimely. Specifically, the insurer relied upon a portion of the policy that stated all claims must be "brought within 2 years after the date on which the direct physical loss or damage occurred." The insurer argued that the relevant damage occurred during the April 20, 2003 hailstorm. In response, Plaintiff maintained that the relevant damage did not occur until February 5, 2005, when the insurer denied coverage for the ice guards. The trial court agreed with the insurer and granted summary judgment. On appeal, a majority of the sitting panel for the Tenth District determined that the above quoted language was unambiguous and held that Plaintiff should have brought its claim for coverage within two years of the hailstorm. One judge filed a dissenting opinion, stating that the time limitation language in the policy was ambiguous because damage could refer to either the actual physical damage caused by the hailstorm or the damage Plaintiff incurred when coverage was denied. Accordingly, the dissent would have construed the limitation in favor of coverage and found that Plaintiff's filing was timely.

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