

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: Eleventh District

Case Name: *Qualchoice, Inc. v. State Farm Ins. Co.*, 2007-Ohio-584

Decided: February 9, 2007 (posted February 12, 2007)

Issue(s): Subrogation Rights / Definition of Damages

Summary of Opinion: The insured was injured while on property that was insured through a homeowner's policy with State Farm. At the time of the injury, the insured had medical insurance through Qualchoice, which paid for the treatment of her injuries. Qualchoice then brought suit against State Farm, seeking contribution pursuant to its subrogation rights. State Farm denied that Qualchoice had a right to contribution on the basis that the subrogation language in Qualchoice's contract with the insured only provided subrogation for damages. Thus, State Farm argued that Qualchoice was only subrogated where it pays for medical treatment caused by a tort. The trial court agreed and granted State Farm summary judgment. On appeal, the Eleventh District held that damages can mean both those losses occasioned by a tort and any money that is owed as a result of a breach of contract. Thus, because the insured was a third-party beneficiary to State Farm's homeowner's policy, she could assert a claim against State Farm for breach of contract, and Qualchoice, as the insured's subrogee, was entitled to seek contribution from State Farm.

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As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.