

**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](mailto:jawagner@green-law.com).**

Court of Appeals: Supreme Court

Case Name: *Fehrenbach v. O'Malley*, 113 Ohio St.3d 18, 2007-Ohio-971

Decided: March 23, 2007 (posted March 23, 2007)

Issue(s): Loss of Consortium / Statute of Limitations

Summary of Opinion: Plaintiffs' child suffered permanent injuries as a result of bacterial meningitis. As a result, Plaintiffs initiated a medical negligence action against the child's pediatrician and the pediatrician's employer. Plaintiffs brought claims both as the child's guardian and in their own right for loss of consortium. It was undisputed that Plaintiffs brought claims over five years after the causes of action had accrued. Accordingly, Defendants moved for summary judgment, arguing that Plaintiffs had failed to comply with the one year statute of limitations for medical malpractice claims. The trial court agreed and granted Defendants summary judgment. However, the First District Court of Appeals held that R.C. 2305.16, which tolls the statute of limitations while the plaintiff is a minor, applied to related parental loss of consortium claims and reversed the trial court's decision. On appeal, a unanimous Supreme Court construed R.C. 2305.16 and held that because a parent's claim for loss of consortium against a third party for injuries to the parent's minor child is an interest that is "joint and inseparable" from the child's own claim, the parent's claim may be tolled during the child's disability.

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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.