SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

Universal Property & Casualty Insurance Company v. Scott Liberatore and Cathy Knoblock

Universal Property · No. 6D2024-1283 · Decided April 2, 2026

SUMMARY

The Sixth District Court of Appeal of Florida affirmed a final judgment in favor of the insureds in a first-party property insurance dispute involving damage from a plumbing leak. The court held that the insurer failed to preserve its arguments concerning the jury instruction on structural fill and found no fundamental error. The court dismissed the insureds' conditional cross-appeal regarding replacement cost value because the final judgment was affirmed.

CASE DETAILS

COURT	Sixth District Court of Appeal of Florida
WRITING FOR THE COURT	Brownlee, J.; Nardella, J.; Gannam, J.
JURISDICTION	Florida Sixth District Court of Appeal
DECIDED	April 2, 2026
DOCKET	6D2024-1283
DISPOSITION	affirmed
PROCEDURAL POSTURE	Universal appealed a final judgment entered after a jury trial in favor of its insureds in a first-party property-insurance dispute. The insureds filed a conditional cross-appeal concerning replacement-cost value.
STANDARD OF REVIEW	Issues not presented to the trial court with the specific legal grounds asserted on appeal are not reviewable, absent fundamental error. Fundamental error is reviewed under a narrow, guarded exception.
PRECEDENTIAL VALUE	Published Florida district court of appeal opinion
PARTIES	Universal Property & Casualty Insurance Company v. Scott Liberatore, Cathy Knoblock

TOPICS

preservation of error · appellate procedure · insurance coverage · civil procedure

PRACTICE AREAS

insurance · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether Universal preserved its argument that the trial court's ruling concerning structural fill amounted to an unnoticed mid-trial summary judgment.
2. Whether Universal preserved its argument that the nature of structural fill was a factual issue for the jury rather than a legal issue for the trial court.
3. Whether the trial court's jury-instruction ruling constituted fundamental error despite Universal's failure to object.
4. Whether the insureds' conditional cross-appeal concerning replacement-cost value remained viable after affirmance of the final judgment.

HOLDINGS

1. Universal failed to preserve the argument because it never objected to the trial court's consideration of the issue at that stage, never argued that the jury instruction amounted to an unnoticed summary judgment, and did not object even after the trial court characterized the ruling as akin to summary judgment.
2. Universal failed to preserve its factual-dispute argument because it did not object or correct the trial court when the court asked whether the issue was factual or legal, and Universal remained silent while the insureds characterized it as a legal issue.
3. The trial court's ruling did not constitute fundamental error.
4. The insureds' cross-appeal was dismissed because the insureds expressly conditioned it on reversal of the final judgment, and the final judgment was affirmed.

KEY QUOTATIONS

> *"[T]o be preserved for appeal, 'the specific legal ground upon which a claim is based must be raised at trial and a claim different than that will not be heard on appeal.'"* (at 1)

> *"We find an error fundamental only when it "goes to the foundation of the case or the merits of the cause of action," id., or when it "involves an egregious deprivation of a constitutional right," Terant v. Beltway Cap., LLC, 147 So. 3d 1103, 1105 (Fla. 3d DCA 2014)."* (at 3)

FACTUAL BACKGROUND

The dispute arose from property damage caused by a plumbing leak at the insureds' home. At trial, the court instructed the jury that structural fill beneath the home was part of the dwelling and/or a material used in the home's construction. Universal did not object when the trial court considered or resolved the issue, did not argue that the ruling constituted an unnoticed mid-trial summary judgment, and remained silent when the court asked whether the issue was factual or legal.

PROCEDURAL HISTORY

After a jury trial, the Circuit Court for Polk County entered final judgment for the insureds. Universal challenged the trial court's jury instruction characterizing structural fill beneath the home as part of the dwelling or a construction material, arguing that the ruling was an unnoticed mid-trial summary judgment and improperly resolved a factual issue. The appellate court held that both arguments were unpreserved, rejected Universal's fundamental-error argument, affirmed the final judgment, and dismissed the insureds' cross-appeal because it was expressly conditioned on reversal.

DISPOSITION

affirmed

CASES CITED

- Aills v. Boemi, 29 So. 3d 1105, 1109 (Fla. 2010)
- Chamberlain v. State, 881 So. 2d 1087, 1100 (Fla. 2004)
- Klein v. Manville, 363 So. 3d 1163, 1170 (Fla. 6th DCA 2023)
- Bryant v. State, 901 So. 2d 810, 822 (Fla. 2005)
- Ortiz v. Sangalang, 425 So. 3d 793, 793 (Fla. 6th DCA 2025)
- Sanford v. Rubin, 237 So. 2d 134, 137 (Fla. 1970)
- Terant v. Beltway Cap., LLC, 147 So. 3d 1103, 1105 (Fla. 3d DCA 2014)
- Universal Prop. & Cas. Ins. Co. v. Montgomery, 51 Fla. L. Weekly D427, D427 (Fla. 6th DCA Mar. 6, 2026)
- R.J. Reynolds Tobacco Co. v. Brown, 286 So. 3d 877 (Fla. 5th DCA 2019)

OPINION

Universal Property & Casualty Insurance Company v. Scott Liberatore and Cathy Knoblock
PER CURIAM.
SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA
_______________________________ Case No. 6D2024-1283 Lower Tribunal No. 2020CA-001832
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UNIVERSAL PROPERTY & CASUALTY INSURANCE COMPANY,
Appellant/Cross-Appellee, v.
SCOTT LIBERATORE and CATHY KNOBLOCK,
Appellees/Cross-Appellants. _______________________________ Appeal from the Circuit Court for Polk County. Ellen S. Masters, Judge. April 2, 2026 BROWNLEE, J. Universal Property & Casualty Insurance Company appeals a final judgment in favor of its insureds, Appellees/Cross-Appellants Scott Liberatore and Cathy Knoblock ("the insureds"), after a jury trial in this first-party insurance dispute arising from property damage after a plumbing leak. On appeal, Universal argues the trial court erred in instructing the jury that structural fill under the home was "part of the dwelling and/or a material used in the construction of the home." Universal argues the

instruction was erroneous both because it amounted to an unnoticed mid-trial summary judgment, and because it invaded the province of the jury on a disputed issue of fact concerning the nature of structural fill. We cannot reach the merits of this issue and affirm on preservation grounds because Universal never made these arguments to the trial court. See Aills v. Boemi,
29 So. 3d 1105, 1109 (Fla. 2010) ("[T]o be preserved for appeal, 'the specific legal
ground upon which a claim is based must be raised at trial and a claim different than that will not be heard on appeal.'" (quoting Chamberlain v. State, 881 So. 2d 1087, 1100 (Fla. 2004))). First, Universal argues the trial court erred in instructing the jury that the structural fill was part of the dwelling and/or a material used in its construction, because it contends this was the equivalent of an unnoticed mid-trial summary judgment ruling in the insured's favor. But Universal never objected to the lower court's considering the issue at that particular stage of the proceedings, nor did it ever argue that choosing the insured's proposed instruction concerning the structural fill amounted to an unnoticed summary judgment. Even when the trial court itself later characterized the ruling as akin to a summary judgment, thereby potentially alerting the parties to that issue, Universal never objected to the instruction on that basis. Thus, this argument is not preserved for our review. See Aills, 29 So. 3d at 1109. 2 Second, Universal argues on appeal that the nature of the structural fill was a factual dispute for the jury, rather than an issue that could be resolved by the trial court. It argues this issue should have come down to a battle of the experts as to whether the structural fill was part of the dwelling and/or a construction material that was covered under the policy, or whether the fill was merely "dirt" that the jury could conclude was "land" and therefore not covered. 1 But the trial court identified this issue before it ruled and asked the parties directly whether this was a factual issue to be resolved by the jury. And when it did so, Universal stood silent. The trial court then sought clarification as to whether this was an issue of law, but again, Universal said nothing. The insureds, however, urged the trial court that it was indeed an issue of law. Thus, Universal neither objected nor tried to correct the trial court's understanding of the issue. Having failed to do so, it did not preserve this contention for our review. See, e.g., Klein v. Manville, 363 So. 3d 1163, 1170 (Fla. 6th DCA 2023) ("[T]o preserve an issue for appeal, the issue 'must be presented to the lower court and the specific legal argument or grounds to be argued on appeal must be part of that presentation.'" (quoting Bryant v. State, 901 So. 2d 810, 822 (Fla. 2005))). 1 Curiously, Universal does not argue that the structural fill was in fact land and therefore not covered by the policy. That is, Universal does not argue the trial court's finding that the structural fill was part of the dwelling was erroneous. 3 Apparently recognizing that the arguments raised on appeal were never raised below, Universal also argues the trial court's jury-instruction ruling constitutes fundamental error. See Ortiz v. Sangalang, 425 So. 3d 793, 793 (Fla. 6th DCA 2025) (quoting Aills, 29 So. 3d at 1109 ("Except in cases of fundamental error, an appellate court cannot consider any ground for objection not presented to the trial court.")). But our "discretion concerning fundamental error" is to be exercised "very guardedly." Sanford v. Rubin, 237 So. 2d 134, 137 (Fla. 1970). We find an error fundamental only when it "goes to the foundation of the

case or the merits of the cause of action," id., or when it "involves an egregious deprivation of a constitutional right," Terant v. Beltway Cap., LLC, 147 So. 3d 1103, 1105 (Fla. 3d DCA 2014). On this record, we find no fundamental error. Accordingly, we affirm. Finally, we dismiss the insureds' cross-appeal concerning their entitlement to the replacement cost value, rather than actual cost value, of their loss. Because they expressly conditioned their cross-appeal on reversal of the final judgment, which we affirm, the cross-appeal is dismissed. See Universal Prop. & Cas. Ins. Co. v. Montgomery, 51 Fla. L. Weekly D427, D427 (Fla. 6th DCA Mar. 6, 2026) (citing R.J. Reynolds Tobacco Co. v. Brown, 286 So. 3d 877 (Fla. 5th DCA 2019)). AFFIRMED; CROSS-APPEAL DISMISSED. NARDELLA and GANNAM, JJ., concur. 4 David A. Noel, Kara Rockenbach Link, and Daniel M. Schwarz, of Link & Rockenbach, P.A., West Palm Beach, for Appellant/Cross-Appellee. Mark A. Nation, of The Nation Law Firm, Longwood, for Appellees/Cross- Appellants.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED