DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

You Restorations LLC, a/a/o Corina De Leon and Cesar De Leon v. First Protective Insurance Company, d/b/a Frontline Insurance

No. 4D2024-1553 (Fla. 4th DCA July 23, 2025) · No. 4D2024-1553 · Decided July 23, 2025

SUMMARY

The Florida Fourth District Court of Appeal affirmed summary judgment for First Protective Insurance Company in an assigned insurance-claim dispute. The court held that the insureds provided untimely notice of the alleged windstorm loss and failed to rebut the resulting presumption that the insurer was prejudiced by the delay. The court affirmed on that alternative ground under the tipsy coachman doctrine, despite disputed evidence concerning causation.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Warner, J.; Gerber, J.; Forst, J.
JURISDICTION	Florida District Court of Appeal, Fourth District
DECIDED	July 23, 2025
DOCKET	4D2024-1553
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final summary judgment entered for the insurer in an assigned-insurance-benefits breach-of-contract action.
STANDARD OF REVIEW	De novo review of an order granting summary judgment.
PRECEDENTIAL VALUE	published and precedential
PARTIES	You Restorations LLC, a/a/o Corina De Leon and Cesar De Leon v. First Protective Insurance Company, d/b/a Frontline Insurance

TOPICS

insurance coverage · summary judgment · conditions precedent · standard of review · appellate procedure

PRACTICE AREAS

property insurance · insurance coverage · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether summary judgment could be affirmed on the alternative ground that the insureds failed to provide prompt notice of the loss.
2. Whether the insureds rebutted the presumption that Frontline was prejudiced by the untimely notice.
3. Whether disputed expert evidence concerning causation precluded summary judgment.

HOLDINGS

1. Under the tipsy-coachman doctrine, an appellate court may affirm summary judgment on an alternative legal ground supported by the record when that ground was presented to the trial court in the summary-judgment motion, even though the trial court relied on a different rationale.
2. An insured's duty to provide notice is triggered when a reasonable person, considering the available facts and information, would conclude that an occurrence implicating the policy is likely. The insureds' nearly two-year delay in reporting a windstorm-related loss, after observing damage that worsened over time, constituted failure to provide prompt notice as a matter of law.
3. When an insured breaches a policy's notice provision, prejudice to the insurer is presumed, and the insured bears the burden of rebutting that presumption. The insureds failed to rebut the presumption because the evidence showed that the damage continued and increased between the storm and the claim, impairing Frontline's ability to determine the extent of the loss.
4. Conflicting expert evidence concerning the cause of the property damage did not preclude summary judgment because the undisputed late notice and unrebutted prejudice independently entitled Frontline to judgment as a matter of law.

KEY QUOTATIONS

> *"The duty to notify is triggered 'when a reasonable person, viewing all available facts and information, would conclude that an award implicating the policy is likely.'"* (at 8)

> *"Summary judgment was appropriate on the issue of notice where the insureds' notice of claim was filed almost two years after the windstorm event claimed to be the cause of a leak that the insureds knew about but failed to report, because the insured husband admittedly procrastinated."* (at 12)

FACTUAL BACKGROUND

The insured homeowners had an all-risk policy from Frontline covering their home, subject to exclusions including wear and tear and repeat seepage or leakage. A windstorm occurred on April 26, 2020, but the homeowners did not report a claim until March 21, 2022, after they had observed a garage ceiling stain and worsening roof and interior damage for an extended period. Their recorded statement indicated that the stain grew over time, roof tiles were damaged, and the homeowners took no steps to repair or protect the property before You Restorations became involved. Frontline denied coverage, citing both policy exclusions and the homeowners' failure to provide prompt notice and protect the property from further damage.

PROCEDURAL HISTORY

You Restorations, as assignee of the insured homeowners, sued Frontline for breach of contract based on Frontline's failure to indemnify an allegedly covered windstorm loss. The county court granted Frontline's motion for final summary judgment, concluding that the loss resulted from a policy exclusion, and dismissed the action with prejudice. After denying You Restorations' motion for rehearing, the county court was appealed. The Fourth District affirmed on the alternative ground that the insureds gave untimely notice and failed to rebut the resulting presumption of prejudice.

DISPOSITION

affirmed

CASES CITED

- State v. Fam. Bank of Hallandale, 667 So. 2d 257, 259 (Fla. 1st DCA 1995)
- All Purpose Title, LLC v. Knobloch, 397 So. 3d 85, 88 (Fla. 4th DCA 2024)
- Dade Cnty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 644-45 (Fla. 1999)
- Hope v. Citizens Prop. Ins. Co., 114 So. 3d 457, 459 (Fla. 3d DCA 2013)
- In re Amends. to Fla. Rule of Civ. Proc. 1.510, 317 So. 3d 72, 75-76 (Fla. 2021)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 251-52 (1986)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574 (1986)
- Scott v. Harris, 550 U.S. 372, 380 (2007)
- Bill Johnson’s Restaurants, Inc. v. NLRB, 461 U.S. 731, 745 n.11 (1983)
- LoBello v. State Farm Fla. Ins. Co., 152 So. 3d 595, 598-600 (Fla. 2d DCA 2014)
- State Farm Mut. Auto. Ins. Co. v. Ranson, 121 So. 2d 175, 180 (Fla. 2d DCA 1960)
- Ideal Mut. Ins. Co. v. Waldrep, 400 So. 2d 782, 785-86 (Fla. 3d DCA 1981)
- Bankers Ins. Co. v. Macias, 475 So. 2d 1216, 1218 (Fla. 1985)
- Yacht Club on the Intracoastal Condo. Ass’n v. Lexington Ins. Co., 599 F. App’x 875, 879 (11th Cir. 2015)
- Sec. First Ins. Co. v. Visca, 387 So. 3d 313, 318, 320 (Fla. 4th DCA 2024)
- Cordero v. Fla. Ins. Guar. Ass’n, 354 So. 3d 1150, 1153 (Fla. 2d DCA 2023)
- Navarro v. Citizens Prop. Ins. Corp., 353 So. 3d 1276, 1280 (Fla. 3d DCA 2023)
- Laquer v. Citizens Prop. Ins. Corp., 167 So. 3d 470, 474 (Fla. 3d DCA 2015)
- Stark v. State Farm Fla. Ins. Co., 95 So. 3d 285, 287-88 (Fla. 4th DCA 2012)
- De La Rosa v. Fla. Peninsula Ins. Co., 246 So. 3d 438, 441 (Fla. 4th DCA 2018)
- Keel v. Indep. Life & Accident Ins. Co., 99 So. 2d 225, 227 (Fla. 1957)
- Ifergane v. Citizens Prop. Ins. Corp., 232 So. 3d 1063, 1065 (Fla. 3d DCA 2017)
- Hartford Accident & Indemnity Co. v. Phelps, 294 So. 2d 362, 365 (Fla. 1st DCA 1974)
- PDQ Coolidge Formad, LLC v. Landmark Am. Ins. Co., 566 F. App’x 845, 850 (11th Cir. 2014)

INSTRUCTIONS FOR AN AI ASSISTANT