

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Universal Property & Casualty Insurance Company v. Dr. Elias Chousleb

Universal Property · No. 3D24-0200 · Decided May 7, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed a final judgment awarding property-loss damages to Dr. Elias Chousleb against Universal Property & Casualty Insurance Company. The court held that the trial court did not abuse its discretion by denying Universal’s request to recall a witness because the proposed testimony would have been cumulative.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Gordo, J.; Emas, J.; Gooden, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	May 7, 2025
DOCKET	3D24-0200
DISPOSITION	affirmed
PROCEDURAL POSTURE	Universal appealed a final judgment awarding Dr. Elias Chousleb damages for property loss.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	published
PARTIES	Universal Property & Casualty Insurance Company v. Dr. Elias Chousleb

TOPICS

- evidence
- appellate procedure
- standard of review
- harmless error
- insurance

PRACTICE AREAS

- property insurance
- civil procedure
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Universal's request to recall a witness to present testimony that was cumulative of testimony already presented to the jury.

HOLDINGS

1. The trial court did not abuse its discretion in denying Universal's request to recall its witness because the proposed testimony was cumulative of testimony already presented to the jury.

KEY QUOTATIONS

“Because Universal sought to elicit testimony already presented to the jury, we find the trial court did not abuse its discretion in denying Universal’s request to recall its witness as any additional testimony would have been cumulative in nature.” (1)

FACTUAL BACKGROUND

Chousleb obtained a final judgment awarding damages for property loss against Universal. Universal sought to recall a witness to elicit testimony that had already been presented to the jury. The trial court denied the request, while admitting all documents requested by Universal and allowing Universal to present closing argument.

PROCEDURAL HISTORY

The Circuit Court for Miami-Dade County entered a final judgment in favor of Chousleb. During the trial, the court denied Universal's request to recall a witness because the proposed testimony had already been presented and would have been cumulative. Universal appealed, and the Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Gonzalez v. Martinez, 897 So. 2d 525, 527 (Fla. 3d DCA 2005)
- Dade Cnty. v. Midic Realty, Inc., 549 So. 2d 1207, 1208 (Fla. 3d DCA 1989)
- Driscoll v. Morris, 114 So. 2d 314, 316 (Fla. 3d DCA 1959)
- Shiba v. Gabay, 120 So. 3d 80, 84 (Fla. 4th DCA 2013)
- Woodson v. Go, 166 So. 3d 231, 233-35 (Fla. 5th DCA 2015)

OPINION

Universal Property & Casualty Insurance Company v. Dr. Elias Chousleb
PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed May 7, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-0200 Lower Tribunal No. 20-3269-CA-01 _____ Universal Property & Casualty Insurance Company, Appellant, vs. Dr. Elias Chousleb, Appellee. An Appeal from the Circuit Court for

Miami-Dade County, Lourdes Simon, Judge. Russo Lima Appellate Firm, P.A., Elizabeth K. Russo and Paulo R. Lima, for appellant. Kula & Associates, P.A., Elliott B. Kula and William D. Mueller, for appellee. Before EMAS, GORDO and GOODEN, JJ. GORDO, J. Universal Property & Casualty Insurance Company (“Universal”) appeals a final judgment awarding damages for property loss in favor of Dr. Elias Chousleb (“Chousleb”). We have jurisdiction. Fla. R. App. P. 9.030(b)(1)(A). Because Universal sought to elicit testimony already presented to the jury, we find the trial court did not abuse its discretion in denying Universal’s request to recall its witness as any additional testimony would have been cumulative in nature. Accordingly, we are compelled to affirm. 1 See *Gonzalez v. Martinez*, 897 So. 2d 525, 527 (Fla. 3d DCA 2005) (“[A] trial judge has the discretion to limit the number of witnesses who the parties may call to testify at trial, and there is no abuse of discretion when the trial judge excludes additional [] testimony that would have been cumulative in nature.”); *Dade Cnty. v. Midic Realty, Inc.*, 549 So. 2d 1207, 1208 (Fla. 3d DCA 1989) (“The court found that the testimony had already been heard and did not permit its introduction. The admission of cumulative evidence is within the discretion of the trial judge and ‘this discretion will not be disturbed on appeal unless it appears to so prejudice the result as to indicate an abuse of discretion.’ In this case, the proffered testimony was cumulative and its exclusion was harmless.” (quoting *Driscoll v. Morris*, 114 1 We also recognize that the trial court admitted all documents requested by Universal, and Universal was able to present closing arguments. 2 So. 2d 314, 316 (Fla. 3d DCA 1959))); *Shiba v. Gabay*, 120 So. 3d 80, 84 (Fla. 4th DCA 2013) (“The [appellant] had the opportunity to be heard on the issue . . . and presented substantial testimony [T]he trial court did not abuse its discretion in sustaining the objection to the cumulative nature of the [witness’s] testimony.”); *Woodson v. Go*, 166 So. 3d 231, 233-35 (Fla. 5th DCA 2015) (“[W]e see no reason to permit litigants . . . to have an almost unfettered right to present cumulative . . . witness testimony. We would observe that section 90.612(1)(b), Florida Statutes [] expressly requires a trial judge to exercise reasonable control over the presentation of the evidence so as to avoid the needless consumption of time Because Appellant has failed to demonstrate that he was prejudiced by the trial court’s actions, we affirm.”). Affirmed. 3