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

Hypoluxo Mariner’s Cay Condominium Association, Inc. v. Underwriter’s at Lloyd’s London, National Fire & Marine Insurance Company, and QBE Specialty Insurance Company

Hypoluxo Mariner’s Cay · No. 4D2024-2250 · Decided April 1, 2026

SUMMARY

The Florida Fourth District Court of Appeal reversed the dismissal of a condominium association’s breach-of-property-insurance-contract action as untimely. The court held that the amended complaint alleged facts potentially supporting an equitable avoidance of the limitations defense and remanded for the trial court to consider whether the applicable statute operates as a statute of repose.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Shepherd, J.; Forst, J.; Klingensmith, J.
JURISDICTION	District Court of Appeal of the State of Florida, Fourth District
DECIDED	April 1, 2026
DOCKET	4D2024-2250
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Association appealed an order dismissing its amended complaint with prejudice for failure to comply with the five-year statute of limitations for breach of a property insurance contract.
STANDARD OF REVIEW	De novo review of an order granting a motion to dismiss with prejudice.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Hypoluxo Mariner’s Cay Condominium Association, Inc. v. Underwriter’s at Lloyd’s London, National Fire & Marine Insurance Company, QBE Specialty Insurance Company

TOPICS

insurance coverage · statute of limitations · motions to dismiss · statutory interpretation · appellate procedure

PRACTICE AREAS

insurance law | civil procedure | appellate procedure

QUESTIONS PRESENTED

1. Whether dismissal on statute-of-limitations grounds was proper where the amended complaint alleged facts suggesting that the plaintiff could establish an equitable defense or avoidance of the limitations period.
2. Whether the appellate court should affirm under the tipsy coachman doctrine based on the alternative argument that section 95.11(2)(e), Florida Statutes, operates as a statute of repose not subject to equitable doctrines, even though the trial court did not decide that issue.

HOLDINGS

1. Dismissal at the pleading stage was improper because the amended complaint alleged ultimate facts that, if proven, could support an equitable defense to the statute-of-limitations defense.
2. The court declined to apply the tipsy coachman doctrine because whether section 95.11(2)(e) operates as a statute of repose, and whether it would bar the Association's claims notwithstanding its equitable allegations, presented a separate potentially dispositive issue that the trial court had not addressed.

KEY QUOTATIONS

> *"At the motion-to-dismiss stage, the trial court was not required to determine whether an equitable defense ultimately applied. The trial court was required only to determine whether the complaint alleged facts suggesting the possibility that the Association could plead facts in avoidance of the limitations defense."* (at 3)

> *"Here, whether section 95.11(2)(e), operates as a statute of repose—and, if so, whether it bars the Association's claims notwithstanding any equitable allegations—presents a separate and potentially dispositive issue that was not addressed below."* (at 4)

FACTUAL BACKGROUND

The Association's property insurance policy covered property damaged by Hurricane Irma on September 10, 2017. The Association timely reported the loss and submitted a sworn proof of loss, but Underwriters did not make the statutorily required coverage determination within ninety days after acknowledging the claim. Underwriters denied coverage approximately one month after the five-year limitations period expired, and the Association filed suit three days later. In its amended complaint, the Association alleged that Underwriters' investigative delays and demands for examinations not required by the policy prevented it from filing suit before the limitations period expired.

PROCEDURAL HISTORY

The circuit court initially dismissed the Association's complaint without prejudice on statute-of-limitations grounds. The Association filed an amended complaint alleging that Underwriters' delays and failure to make a timely coverage determination equitably prevented timely suit. The circuit court dismissed the amended complaint with prejudice and denied rehearing without expressly addressing Underwriters' alternative argument that the statute operated as a statute of repose.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must consider in the first instance whether section 95.11(2)(e), Florida Statutes, operates as a statute of repose and, if so, whether it bars the Association's claims notwithstanding the equitable allegations. Further proceedings must be consistent with the opinion.

CASES CITED

- Expert Inspections, LLC v. United Prop. & Cas. Ins. Co., 333 So. 3d 200 (Fla. 4th DCA 2022)
- Preudhomme v. Bailey, 211 So. 3d 127, 130 (Fla. 4th DCA 2017)
- Beachway Rests. v. Santo & June, Inc., 386 So. 3d 961, 963 (Fla. 4th DCA 2024)
- Toledo Park Homes v. Grant, 447 So. 2d 343, 344 (Fla. 4th DCA 1984)
- Wishnatzki v. Coffman Constr., Inc., 884 So. 2d 282, 285 (Fla. 2d DCA 2004)
- State v. S.V., 958 So. 2d 609, 612 n.3 (Fla. 4th DCA 2007)
- One Call Prop. Servs., Inc. v. Sec. First Ins. Co., 165 So. 3d 749, 755–56 (Fla. 4th DCA 2015)
- Stark v. State Farm Fla. Ins. Co., 95 So. 3d 285, 289 n.4 (Fla. 4th DCA 2012)