

## Florida Case Law Update

In the world of Florida insurance defense, we are obtaining positive gains in recent weeks. In addition to the recent Strems Order, we have also received two additional Court Orders that help us in our continued defense in first party property matters here in Florida. Copies of the Orders are attached.

Insufficient Civil Remedy Notice: The District Court for the Southern District of Florida recently dismissed a property bad faith lawsuit due to an insufficient Civil Remedy Notice (“CRN”) because the CRN did not comply with the statute. The Order outlines the 15 statutory requirements for the information a CRN must include and notes that the requirements of Section 624.155 must be strictly construed. *Pin-Pon Corp. v. Landmark Am. Ins. Co.*, 20-CV-14013, 2020 WL 3038576 (S.D. Fla. June 5, 2020).

Burden of Proof for “Constant and Repeated Seepage” exclusion: The Third District Court of Appeal affirmed a Miami-Dade County judge’s granting of final summary judgment in favor of Safepoint finding a water loss was excluded under the “constant and repeated seepage” exclusion under an all risk policy. The trial court had found that the Insured failed to meet his burden to show the damage was not caused by an excluded event when he failed to introduce any admissible evidence. The Court rejected the Insured’s argument that disputed expert opinions was sufficient to overcome summary judgment. In addition, the Court declined to consider a post-deposition affidavit from the Insured’s expert that directly contradicted the expert’s own prior statements. *Desazor v. Safepoint Ins. Co.*, 3DAT-2414 (Fla. App. Ct. May 20, 2020).

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