

## Galloway Wins Summary Judgment in Citizens Case

**April 26, 2022**

Galloway Florida attorney Edward Krakauer obtained summary judgment on behalf of an insurer against a water mitigation company that brought suit under an assignment of benefits but failed to comply with the statutory notice requirement. On April 20, 2022, the Fourth District Court of Appeals affirmed the trial court's ruling.

### **The Statute**

On May 24, 2019, the Florida legislature enacted Florida Statute § 627.7152, instituting certain substantive and procedural obligations for parties suing pursuant to an assignment of benefits, including a 10-day pre-suit notice requirement. The statute took effect on July 1, 2019.

### **The Underlying Claim**

In this case, the plaintiff's assignment of benefits was executed after July 1, 2019, but it was executed under a policy of insurance that had an inception date prior to July 1, 2019. The plaintiff initiated the suit without complying with the 10-day notice requirement of § 627.7152 but argued the requirement did not apply because the statute took effect after the policy's inception date. However, the trial judge disagreed, stating "the legislature made it clear that the new statutory requirements for assignment of benefits under Fla. Stat. §627.7152 were to affect all assignment of benefits executed on or after July 1, 2019," regardless of the policy's inception date. The trial judge entered her ruling on January 13, 2021.

### **The Appellate Result**

On April 20, 2022, the Fourth District Court of Appeal agreed with the trial judge's findings, stating: "We address the question of whether the 10-day notice requirement of section 627.7152(9)(a), Florida Statutes (2019), applies to an assignment of insurance benefits executed after the effective date of the statute, even where the underlying policy was issued before that effective date. We hold that the statute applies to an assignment of benefits executed after the effective date of the statute."