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An Adjuster's Key Take Aways



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Sprinkled amongst all the classes, legal experts share and explain current case law. These were some of the key items learned (some surprising) from my notes that could have an impact on an insurance claim in 2014. This information was conveyed by qualified legal professionals and in no way constitutes legal advice by me or Tutwiler & Associates. We invite our legal colleagues to comment and ask our readers to ask questions that we can pass along.

Bad Faith: A recent 4th DCA decision has determined in *Perdido v. Citizens* that Citizens Insurance IS subject to Florida Statute 624.155 and policyholders should file civil remedy notices (CRN) whenever they believe that a failure to act in good faith has occurred.

Conditions Precedent: Another 4th DCA decision determined in two separate cases that a motion for summary judgment can only be successful for an insurance carrier if they can demonstrate that the failure of an insured to comply with conditions precedent, prejudiced their ability to properly investigate a claim.

Profit & Overhead: Subject to controlling policy language, Overhead & Profit must be included in an RCV payment according to the 2nd DCA.

Concurrent Causation vs. Efficient Proximate Cause: According to the 2nd DCA in *American Home v Sabo* in Florida, Concurrent Causation was the standard. But as of now, the 2nd DCA, relying upon a majority of States, found that Efficient Proximate Cause is

now the standard in determining coverage issues.

Strict Construction of Language: Finally, The Florida Supreme Court determined in *Washington National vs. Ruderman* that extrinsic language and/or evidence cannot be used to determine the meaning of policy language.

Appraisal: Bad faith can be brought after an appraisal award because the award constitutes a favorable resolution of the claim for the insured.

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