

## Florida Supreme Court Rules That Property Policy Covers Loss Caused In Part By Excluded Perils

12.21.16



(Article from *Insurance Law Alert*, December 2016)

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The Florida Supreme Court ruled that a homeowner is entitled to coverage under a property policy where the losses are attributable to both covered and excluded perils. The court rejected application of the efficient proximate cause doctrine in favor of a concurrent cause analysis. *Sebo v. American Home Assurance Co., Inc.*, 2016 WL 7013859 (Fla. Dec. 1, 2016).

A homeowner sought coverage for water-related damage under an all risk policy issued by American Home, which denied coverage. In ensuing litigation, a jury found in the homeowner's favor. A Florida appellate court reversed, ruling that the trial court improperly applied the concurrent cause doctrine, under which coverage may exist when a loss is caused by both insured and excluded perils, even if a covered peril is not the primary cause. The appellate court held that the proper standard in a first-party property case involving multiple perils is efficient proximate causation, which requires a covered peril to be the efficient proximate cause of the loss. The Florida Supreme Court reversed.

The Florida Supreme Court held that the efficient proximate cause doctrine is inapplicable because "there is no reasonable way to distinguish the proximate cause of Sebo's property loss – the rain and construction defects acted in concert to create the destruction of Sebo's home. As such, it would not be feasible to apply the EPC doctrine because no efficient cause can be determined." In this respect, the decision may be limited to situations in which multiple causes simultaneously cause loss, and may not apply where a loss is caused by a sequence of covered and uncovered events. In addition, the court noted that insurers may contract out of concurrent causation through explicit policy language.

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