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THERE'S NO DENYING IT: FLORIDA POLICYHOLDERS HAVE A RIGHT TO INSURANCE COVERAGE FOR THE FIRST 13 DAYS OF A WATER LOSS

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This past week, an intermediate appellate court issued a significant decision in *Hicks v. American Integrity Ins. Co.* The Court decided that the insurance company had misapplied a policy provision excluding damages caused by the "[c]onstant or repeated seepage or leakage of water… over a period of 14 days or more."

In *Hicks,* while the insured was out of town, the water supply line to his refrigerator began to slowly leak. By the time the insured returned the next month, the leak had increased to almost one thousand gallons per day. The insurance company applied the above exclusion to deny the claim asserting that the pipe had been leaking for over five weeks.

The appellate court, however, ruled that this provision was ambiguous as to whether this provision excluding losses caused over a period of 14 days or more would also exclude the first 13 days of the water event. In other words, all damage that occurred in the first 13 days would not be excluded.

The importance of this decision cannot be overstated. Insurance companies often assert this provision or a similar one to deny claims where water damage occurs over a period of time. With this new decision, insureds now have a good legal basis for asserting entitlement to coverage for the first 13 days of a water event even where the insurance company denies the claim for occurring over 14 days or more.

Should you have any questions or concerns about how this decision impacts your insurance coverage, please do not hesitate to contact Michael J. Higer, Gina Clausen Lozier, or Christopher Choquette in our Insurance Litigation Department.

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