THIRD DCA RULES PRE-2018 POLICY RENEWALS ONLY REQUIRE NOTICE OF POLICY CHANGE AND NOTICE OF MEDIATION RIGHTS IS ONLY REQUIRED ONCE DISPUTE ARISES

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In its recent decision in *People's Trust Insurance Company v. Lavadie*, Florida's Third District Court of Appeal addressed the requirements for notice of policy changes and notice of mediation availability. The underlying loss involved damage to the insureds' home caused by a water leak in April 2016. The insurance company acknowledged coverage for the loss and notified the insured homeowners that it would be using its contractor to repair the damage. The homeowners provided the insurance company with their contractor's estimate, which was significantly higher than the insurance company's estimate. In response, the insurance company sent a letter advising the homeowners of mediation's availability to attempt to resolve the dispute. The insurance company also sent a letter demanding an appraisal of the claim. After the homeowners refused to proceed with the appraisal, the insurance company filed suit.

The homeowners argued that they should not be required to participate in an appraisal because the appraisal provision was added to the insurance policy during the homeowners' 2016 renewal of the policy. The homeowners asserted that the insurance company's policy renewal offer did not describe each change in the new policy. The court ruled that based on the applicable statute in place at the time of the loss the insurance company complied with the law by notifying the homeowners generally that the policy terms were changing. The insurance company was not required to provide the homeowners with a description or summary of each policy renewal change. The court also noted that considering a 2018 amendment to the relevant statute, for all policy renewals after 2018, insurance companies would be required to provide advance written notice to insureds summarizing all the policy renewal changes.

Additionally, the insureds argued that they were not required to comply with the policy's appraisal terms because the law requires the insurance company to provide timely notice to its insureds of the right to participate in mediation. If the insurance company fails to provide notice, the insureds are not required to participate in the appraisal. The court here ruled that insurance companies are not required to send notice of the right to participate in mediation until there is a dispute as to the amount of loss. In this case, the insurance company was not required to provide the mediation notice until the homeowners advised them of the dispute as to the amount of loss by providing their estimate of damages.

Ultimately, for any insureds with open claims pertaining to pre-2018 renewal policies (such as Hurricane Irma claims), the court's decision clarifies that insurance companies were merely required to provide notice of policy change. Still, no further detail or summary would be required. To the extent that such notice was provided, insureds would not be able to avoid compliance with the changed policy provisions. Additionally, the

Court’s ruling clarifies that insurance companies are under no obligation to provide their insureds with notice of their right to mediation unless and until a dispute arises as to the claim.

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