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Florida Supreme Court halts review of controversial AOB insurance case

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A majority of justices determined that their review was no longer needed after the new law was passed.

By **Raychel Lean** | August 02, 2019 at 06:00 AM

In the latest move in the ongoing AOB saga in Florida, the state supreme court has dropped its review of a controversial case. (Photo: Shutterstock)

The Florida Supreme Court changed its mind Monday about reviewing an insurance lawsuit involving assignment-of-benefit agreements, or AOB, a controversial issue at the center of a legislative revamp.

The high court accepted jurisdiction in December 2018, but those were different times in the world of insurance law.

Since then, [a new law that took effect July 1](#) in Florida has allowed insurers to offer policies that restrict or block AOB, which allows homeowners to sign over their insurance policy rights to contractors. It was intended to speed up repairs, save consumers the hassle of chasing claims and stymie denials of legitimate claims.

[The new law addressed concerns from insurers](#), who claimed restoration contractors took advantage by exaggerating repair costs and profiting from excessive lawsuits over minor claims, particularly concerning water damage in South Florida. It also slashed attorney fees in insurance litigation. And it was bad news for some contractors, who worry the changes make it harder to step into homeowners' shoes to seek [payment from insurance companies](#).

Court or Legislature?

Now, another development, this time in the state's high court.

The underlying case, [Restoration 1 of Port St. Lucie v. Ark Royal Insurance](#), stems from Florida's Fourth District Court of Appeal, which had a certified conflict with two Fifth DCA cases.

The plaintiffs, Restoration 1 and homeowners John and Lisa Squitieri, had sued Ark Royal Insurance for breach of contract over a water-damage claim at a St. Lucie County home.

According to the Fourth DCA's opinion, Lisa Squitieri hired Restoration to perform cleanup services, and she assigned her benefits to the company without consulting her husband or the mortgagee, PNC Bank. When Ark Royal refused to pay the resulting \$20,000 claim, the plaintiffs sued, claiming that a clause requiring the signatures of all insureds and mortgagees for an AOB agreement violated Florida law.

The Fourth DCA disagreed, dismissing the case and saying that the public policy concerns raised in the case were "best addressed by the legislature, not the courts."

Now that the Legislature has addressed the issue, the majority of justices took that to mean they were no longer needed.

"Because we conclude that the new legislation addresses on a going-forward basis the issue before us, we exercise our discretion to discharge jurisdiction," the ruling said.

Discharging jurisdiction is at the court's discretion, but it was a close call, sparking dissents from the court's three newest jurists — Justices Barbara Lagoa, Robert Luck and Carlos Muniz — all of whom were appointed by Florida Gov. Ron DeSantis, who approved the new law in May.

Plaintiffs counsel Gray R. Proctor of Fox & Loquasto in Richmond, Virginia said it made sense to him that the court decided not to spend time analyzing a clause that became less important with the law change.

"In a sense it is saving that time for the upcoming challenges to the new anti-AOB law," Proctor said. "I do think it's a better use of the court's time at this point."

Proctor is working on the case with Scott Millard of Cohen Grossman in Maitland.

Counsel to Ark Royal, Kenneth B. Bell and Lauren V. Purdy of Gunster, Yoakley & Stewart in Tallahassee, deferred comment to their client, who did not immediately respond.

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