

Corban v. United Services Automobile Association a/k/a USAA Insurance Agency

Year: 2007

Court: Mississippi Supreme Court

Case Number: 2008-M-645

Interlocutory Appeal. Addresses numerous issues: 1.) In an “all risk” policy, once the insured proves that “a direct physical loss” was sustained, the insurer has the burden of proof to establish what portion of the “direct physical loss” was caused by a specifically excluded event or cause. 2.) With a Katrina loss, which contains components of both wind and flood, the insurer should still have the burden of proving, through non-speculative evidence that personal property damage was caused by a specific exclusion. 3.) If the court finds the anti-concurrent clause is not ambiguous, it should rule that wind and water damage are separate and only the “flood” damage is subject to the exclusion. 4.) If the policy contains Additional Coverage for “collapse” the policy’s exclusion for “water damage” should be inapplicable.

UP's brief was written pro bono by William F. Merlin, Jr., Esq. and Amy Bach, Esq.

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