

RTG Furniture v. Aspen

Year: 2021

Court: United States Court of Appeals for the Eleventh Circuit

Case Number: 21-10490

In its brief, UP tackles the topic of COVID-19. In the argument’s summary, UP states that the district court erred in holding “direct physical loss of or damage to” has only one meaning—“tangible injury to property”— because in doing so the district court: (1) ignored the plain language and context of the policies; (2) inserted a judicially created exclusion into the policies (the Mama Jo’s cleaning exclusion) in contravention of relevant Florida precedent considering this issue; and (3) disregarded the rights of the parties to contract. A finding that “direct physical loss of” property does not require “structural alteration” of property is further consistent with the majority of cases considering this issue, pre-COVID-19.

This brief was authored pro bono by Hugh Lumpkin, Matthew Weaver, and Noah Goldberg of Reed Smith LLP