

## [Court rules against insurer in property damage fight](#)

News 4 JAX

In a case watched by insurance-industry groups, the Florida Supreme Court on Thursday ruled against an insurer in a dispute about paying for damage to a multimillion-dollar Naples home that had to be demolished after a combination of construction defects and water intrusion.

The case dealt with widespread water damage sustained in 2005 — including when Hurricane Wilma slammed into Southwest Florida — and whether insurer American Home Assurance Co., Inc., should be required to pay a claim filed by homeowner John Sebo.

The insurer contended that the damage stemmed from construction defects, which were not covered under a policy purchased by Sebo, who paid \$11.2 million for the home earlier in 2005, according to court documents. Sebo's attorneys argued the damage should be covered because wind and rain were "concurrent causes" and were covered under the policy.

A circuit judge ruled in favor of Sebo, awarding \$8.07 million, but the 2nd District Court of Appeal overturned that decision, documents show. The Supreme Court, in a 6-1 decision Thursday, rejected the appeals court's reasoning and sided with Sebo.

The majority opinion, written by Justice James E.C. Perry, said there was no dispute that rainwater and hurricane winds combined with the construction defects to cause the damage. Perry wrote that "there is no reasonable way to distinguish the proximate cause of Sebo's property loss — the rain and construction defects acted in concert to create the destruction of Sebo's home."

Chief Justice Jorge Labarga and justices Barbara Pariente, R. Fred Lewis and Peggy Quince fully joined Perry's opinion. Justice Charles Canady agreed with the result, though he did not sign on to the opinion.

Justice Ricky Polston dissented because he said an issue in the case was not raised in the lower courts. He argued the case should be sent back to the 2nd District Court of Appeal to consider that issue instead of the Supreme Court ruling on the broader “merits” of the dispute.

The case, involving somewhat-esoteric insurance law, drew attention from the property-insurance industry, public insurance adjusters and a consumer group.

A friend-of-the-court brief was filed on behalf of American Home Assurance Co. by the Florida Insurance Council, the Property Casualty Insurers Association of America, the National Association of Mutual Insurance Companies and the American Insurance Association. Sebo, meanwhile, was backed by briefs from the Florida Association of Public Insurance Adjusters and the group United Policyholders.

In its brief, United Policyholders noted that insurance coverage in cases “involving concurrent causation has been the subject of great debate.”

A brief filed by Sebo’s attorneys said the Naples property included a multi-story main house and a guest house that combined to have more than 300 windows and sliding glass doors. Sebo was quoted in the brief as saying walking through the front door was like “walking into a Polynesian village.”

Sebo bought the home in April 2005 and initially paid a premium of \$47,721 for an “all risks policy,” a premium amount that went up later in the year to more than \$50,000, the brief said. Water-damage problems began appearing in June 2005, with more damaging occurring when Hurricane Wilma hit in October 2005.

After Sebo filed a claim, the insurer said it was only responsible for paying \$50,000 for mold damage.

Sebo filed a lawsuit that named several defendants, including previous owners of the home, an architect and a construction company, and later reached settlements with defendants other than the insurance company, according to court documents. The home ultimately could not be repaired and was demolished.