IN THE DISTRICT COURT OF APPEAL
SECOND DISTRICT
STATE OF FLORIDA

NATIONWIDE MUTUAL INSURANCE COMPANY, CASE NO.: 2D04-4906

Appellant/Defendant,

vs.

FRANK CHILLURA and STEVE CHILLURA,

Appellees/Plaintiffs.

ON APPEAL FROM THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

Honorable William P. Levens

AMICUS CURIAE BRIEF OF UNITED POLICYHOLDERS

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STATEMENT OF INTEREST OF *AMICUS CURIAE*

United Policyholders, a non-profit, tax-exempt, charitable organization provides valuable information and assistance to the public concerning insurance and consumer rights issues. United Policyholders also works on behalf of business and homeowner consumers by monitoring marketplace and legal developments that affect the general public, and responds accordingly on the public's behalf by actively participating in public policy debates at legislative, regulatory and other public hearings.

This case involves issues that will ultimately impact a large segment of the public. This Court's ruling on the important matters involved will clarify the extent of an insurer's accountability to its insured, as well as the scope of a policyholder's rights under its insurance policy. Determination of these issues will go far in achieving uniformity and consistency in state and out-of-state court interpretations regarding insurance policy coverage issues.

United Policyholders' depth of knowledge concerning insureds' rights and options pertaining to their insurance claims can bring additional insight into this matter, ultimately assist in a case of general public interest, supplement efforts of counsel, and draw the court's attention to law that may have escaped consideration.

SUMMARY OF THE ARGUMENT

A building's foundation system is an integral component of any building. Accordingly, declaring a foundation system part of the "land" and not part of the building in order to deny coverage is misconstruing and misapplying both Florida Statute § 627.706 and

related insurance policy provisions. Building foundation systems may be located above-ground, partly in ground, completely in ground, or in all three locations. Application of the sinkhole statute and/or insurance policy to deny coverage for certain types of foundation systems would create inconsistency and eviscerate the effect and intent of the statute.

A proper inspection of areas that might be physically damaged due to sinkhole activity necessarily requires inspection of a property's infrastructure, as well as areas that may be located behind or inside walls, under floors and like areas. Exclusion from coverage should not result simply because an area is not easy to reach or may require some actual effort to inspect. It would be impossible to determine the scope of physical damage unless inspection of the possibility of such damage is undertaken.

In many or all property liability insurance contexts, (e.g., fire, windstorm, water, etc.), a property's infrastructure, internal, and its external components are examined to determine the full extent of damage or loss. There is no valid reason for treating sinkhole damaged property any differently.

ARGUMENT

I. THE FOUNDATION SYSTEM IS AN INTEGRAL COMPONENT OF THE DWELLING/BUILDING AND IS COVERED PROPERTY PURSUANT TO §627.706,FLORIDA STATUTES AND APPLICABLE INSURANCE POLICIES

Florida Statute Sections 627.706(2) and (3) state:

> 'Loss' means structural damage to the building. Contents coverage shall apply only if there is structural damage to the building.

'Sinkhole Loss' means actual physical damage to the property covered arising out of or caused by sudden settlement or collapse of the earth supporting such property only when such settlement or collapse results from subterranean voids created by the action of water on a limestone or similar rock formation.

When damage to a building occurs as a result of a sinkhole loss, repairs undertaken to stabilize the foundation system, which is one part of the whole structure of the building, necessarily require that such foundation system also be covered by the insurance policy. The coverage at issue is for the **foundation system** which is an integral component of the building; other components of the building which are apparently not at issue and therefore covered, include the plumbing system, electrical system, flooring system, wall system and roofing system.

If necessary, the plain and ordinary meaning of a word can be ascertained by reference to a dictionary. *Green v. State*, 604 So.2d 471, 473 (Fla. 1992). *The Oxford Reference Dictionary* 316 (1986) defines the term "foundation" as "[t]he solid ground or base on which a building rests; the lowest part of a building usually below ground-level." This normal every-day usage of the term "foundation" illustrates that the foundation is considered an element of the building[1]. As such, the foundation system component of a building

1 Numerous other dictionaries interpret the term "foundation"as the supporting part of a building or structure and do not construe a "foundation" as being distinct and separate from a building. (i.e., " The strong base from which a building is built up." *Oxford American Dictionary* 257 (1980); "Structural system that stabilizes a structure where it comes in contact with the soil. Depending on the type of soil under a structure, various foundational systems are available to ensure the stability of the structure." *Modern Dictionary for the Legal Profession* 356

provides the support for the remaining components of the building. The term "support" is defined by the *American Heritage Dictionary* 1804, 3rd Edition (1992) in the following manner: "To bear the weight of, especially from below. To hold in position so as to keep from falling, sinking or slipping. To be capable of bearing; withstand. To keep from weakening or failing; strengthen."

A building's foundation system component may lie partly beneath the ground or land; however that does not make the foundation system the same as the "land" that contains the foundation system, as has been argued[2]. It is a quite of leap of logic for one to argue that if the "land" is not covered, then the cost of repairing the foundation system by grouting or underpinning is also not covered. Grout that is injected into the foundation system and the subsurface pins which are part of such system, are neither land, nor dirt, nor earth nor subsoils, though they may be located within the land, dirt, earth or subsoils. Because the "land" is not covered, does not mean that the artificial/man-made structural underpinnings (or other materials) that are part of the foundation of the artificially constructed,

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(William Hein & Co.)(1993).

[2] Although a commercial insurance policy is at issue in this case, most standard homeowner's insurance policies also include the term "land" without any corresponding definition.

covered structure, are not covered under the policy and/or statute as well.

The argument that "land" is not covered and therefore, a building's structural foundation system, which could be on "land", in "land" or below "land" is not covered, is an argument that could be taken to absurd lengths. For example, in a water damage claim resulting from a burst pipe, an insurer could conceivably argue that the loss is not covered because the attached underground pipes (i.e., plumbing system) are located in or below the "land." Such interpretation, limitation or exclusion would completely contradict the insuring provision making the insurance coverage illusory. *See Purrelli v. State Farm Fire & Cas. Co.*, 698 So.2d 618, 620 (Fla. 2d DCA 1997). Utilizing such distorted reasoning to deny coverage for a building's vital foundation system would also result in an illusory contract. A contract in which one party enjoys a "heads-I-win, tails-you-lose" bargain renders a contract unreasonable, illusory and unenforceable. *See Hardwick Properties, Inc. v. Newbern*, 711 So.2d 35, 38 (Fla. 1st DCA 1998). Not only is the term "land" left undefined in the subject policy(ies) of insurance, such term is not even contained in the sinkhole statute. The term "land" actually has a variety of meanings. If broadly construed, then nothing would be covered and again, coverage would be illusory.

Terms in an insurance policy should be given their every day man-on-the-street meaning as read in the light of the skill and experience of ordinary people. *See Lindheimer v. St. Paul Fire & Marine*, 643 So.2d 636 (Fla. 3d DCA 1994); *Morrison Assurance Co. v*

School Bd. Of Suwanee County, 414 So.2d 581 (Fla. 1st DCA 1982). *The American Heritage Dictionary,* 1011 (3rd Edition) (1992)defines the term "land" in pertinent part as "the solid ground of the earth, ground or soil." *Websters New International Dictionary,* 1388 (2nd Edition), (1953) defines "land" as "the solid part of the surface of the earth, as distinguished from water constituting a part of such surface, esp. from oceans and seas. Any portion of the surface of the earth . . . . Ground, esp. in respect to its situation, nature, or quality; soil . . . ." The term "land" also generally signifies a natural condition and should be distinguished from a man-made system even if such man-made system alters the natural condition. See *Fayad v. Clarendon National Insurance Company*, 899 So.2d 1082(Fla. 2005)(interpreting Earth Movement policy exclusion; distinguishing between man-made and natural events.) Accordingly, the plain, every-day meaning of these terms readily distinguishes the natural connotations of "land" and/or "earth" from artificial/man-made creations (i.e., building foundation systems). Policy language should be read in common with other policy provisions to accomplish the intent of the parties; and the interpretation which provides the more reasonable and probable contract should be adopted. *See Gilmore v. St. Paul Fire & Mar. Ins.*,708 So.2d 679, 680 (Fla. 1st DCA 1998)*(*citing *American Employers' Ins. Co. V. Taylor,* 476 So.2d 281, 283-84 (Fla. 1st DCA 1986)). A building's foundation system may be in the ground; however, it is still part of the building, and does not chemically or physically, become part of the ground, thereby alleviating insurance companies from the obligation and statutory requirement of paying for repairing

the foundation system.

Florida law is clear that insurance coverage must be construed broadly and exclusions narrowly. *See Young v. Progressive Southeastern Insurance Co.*, 753 So.2d 80, 84 (Fla. 2000); *Hudson v. Prudential Ins. Co.*, 450 So. 2d 565, 568 (Fla. 2nd DCA 1984). Even assuming arguendo, that the term "land" could somehow be construed so expansively and broadly in scope as to somehow preclude coverage for a building's foundation system, under Florida law, if relevant language in an insurance policy is susceptible to more than one reasonable interpretation, one providing coverage and another limiting coverage, an ambiguity then exists and the court is bound to adopt the interpretation favoring coverage. *Adolfo House Distributing Corp. v. Travelers Property and Cas. Ins. Co.*, 165 F.Supp.2d 1332 (S.D. Fla. 2001), *Rakoff v. World Ins. Co.*, 191 So.2d 476 (Fla. 3rd DCA 1966). An insurer is responsible for clearly setting forth the damages that are excluded from coverage under the policy. *See Fayad v. Clarendon Nat. Ins. Co. 899 So.2d 1082 (Fla. 2005); see also Demshar v. AAACon Auto Transport, Inc.*, 337 So.2d 963, 965 (Fla. 1976).

Although only one type of building foundation system is discussed in this case, a variety of foundation systems exist in building construction, depending on the topography, construction and/or engineering involved. All of these foundation systems are artificial/man-made structures. Moreover, some foundation systems may even convert natural materials (e.g., sand, soils, etc.)into artificial/man-made forms (e.g., concrete, compacted base/soils, etc.). *See generally*: *Foundation Analysis And Design,* JOSEPH E.

BOWLES, 4th Edition, (McGraw-Hill, Inc.); *Foundation Engineering*, RALPH B. PECK, WALTER E. HANSON, and THOMAS H. THORNBURN, 2nd Edition, (John Wiley & Sons); *Design of Concrete Structures*, GEORGE WINTER and ARTHUR H. NILSON, (McGraw-Hill, Inc. 1979). As discussed above, building foundation systems may be located above-ground, partly in the ground, completely in the ground, or in all three locations. Accordingly, application of the sinkhole statute and/or insurance policy to deny coverage for certain types of foundation systems would create inconsistency and eviscerate the effect and intent of the sinkhole statute. Ultimately, the goal is to achieve a uniform and consistent interpretation regarding such insurance coverage in order to clarify the extent of an insurer's accountability to its insured. Consequently, coverage for properties with varying foundation systems should not be affected by, or dependent upon, the type of foundation system utilized or not utilized.

The Florida legislature's intent in enacting Florida Statute § 627.706 was to provide insurance coverage for properties sustaining physical damage to any part of a building due to sinkhole loss(es). The statute does not distinguish between, or exclude various parts of a building from coverage. Accordingly, excluding coverage for the foundation system; an integral structural component of a building, will prevent the ultimate results desired by the legislature when it enacted Florida Statute § 627.706.

Certain arguments have been proffered that by virtue of the language contained in the sinkhole statute in conjunction with language in the insurance policy(ies), **anything** that provides the

support for a building is intended not to be covered; and that "earth" or "land" **are the same** as the structural foundation system. Such arguments are based upon a tortured interpretation of the property insurance policy(ies) and Florida's sinkhole statute. Florida Statute § 627.706 mandates that insurers provide coverage for loss(es) that result in physical damage to property, due to sinkhole loss. Such coverage provided by the statute cannot be deleted, subtracted or taken away by any dubious interpretation of, or language in an insurance policy. The sinkhole statute controls, not the self-serving interpretation of an insurance policy. *See Martin v. Ritcheson*, 306 So.2d 582 (Fla. 1st DCA 1975).

The argument that a building's foundation system is a separate and distinct component from the actual building or structure is not logical nor reasonable.[3] A building's foundation system is planned, devised, and implemented as one part of an integrated, interconnected system of components that when completed, result in one, complete building. If placement of a foundation was implemented as an afterthought or based simply on aesthetics or economic factors, presumably, there would be buildings or structures constructed without supporting foundations (and which would inevitably collapse); however, such is not the case. The foundation system is not just an integral

[3] *Blacks Law Dictionary* 1276 (5th Edition) (1979), defines the term "structure" as: [a]ny construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner. That which is built or constructed; an edifice or building of any kind. A combination of materials to form a construction for occupancy, use or ornamentation **whether installed on, above, or below the surface of a parcel of land.** (Emphasis added).

element of a building or structure, it is one of the most important elements of a building or structure.

To support the premise that a foundation system is somehow not covered under the sinkhole statute, *Webster's Dictionary*, 4th Edition, has been cited to interpret the terms "contained," "therein" and "structure." The conclusion reached from the insurer's analysis of the foregoing definitions is that "a 'structure' can only be something that has the capacity of ***holding***, enclosing, or including personal property or contents . . . [,] " (Emphasis added); therefore, a foundation is not covered. Not only is such an interpretation unfounded, it ignores that a foundation system is itself part of the structure and **holds** the remaining components of the building. Consequently, since a structure's foundation system **holds** the rest of the integrated parts of the "structure," the aforementioned definitions actually support the contention that foundation systems are covered.

As discussed above, Florida Statute §627.706 was intended to provide insurance coverage to insureds who sustain physical damage to their property (not specific parts of a property) as a result of sinkhole loss(es). Nevertheless, various cases have been cited to support the contention that insurance coverage should not be extended to a building's foundation system (i.e., *Warth v. State Farm Fire & Casualty Co.*695 So.2d 906 (Fla. 2d DCA 1997); *Cincinnati Ins. Co. v. W.H.F. Wiltshire*, 472 So.2d 1276 (Fla. 1st DCA 1985); *Hudson v. Prudential Ins. Co.*, 450 So.2d 565 (Fla. 2d DCA 1984)). However, these cases do not support said contention and reliance on same is

misplaced. The main issue in all of the aforementioned cases involves the question of causation and whether sinkhole activity was the cause of damage to the insured properties. Whether coverage existed for the subject buildings' foundation systems was neither an issue in the cases, nor even discussed. Consequently, analysis of such cases should not, and does not, lead to the conclusion that insurance coverage should not include a building's foundation system. The only logical conclusion to be reached where an issue is not raised in a particular case is that the issue was not material to that particular case. No other conclusion should be inferred or deduced.

A structure or building is presumably erected for human habitation or for some other purpose, business or otherwise. Other than construction of same for strictly aesthetic purposes, it is **generally** not built to simply exist as a shell that looks good but is not functional. As such, to achieve the goal of functionality, a building cannot float in air, and therefore requires a foundation system in order to stay in place and become functional. Providing insurance coverage for buildings without providing coverage for stabilization of the building's foundation systems would limit the practicality of such sinkhole coverage to mobile homes, sheds, barns and tiki huts. Reality dictates that foundation systems include sufficient, properly placed grouting and subsurface pins, even if placed in the "land" or "earth," to ensure that the buildings/structures stay in place. Anything less would be ill-conceived, impractical and useless. Accordingly, to fully ensure that the legislature's intent to provide property insurance coverage for

damaged property (and not bits and pieces of a property), due to sinkhole damage is uniformly and consistently implemented, coverage should include a building's foundation system.

II. INSURANCE COVERAGE INCLUDES THE COST OF DETERMINING THE EXTENT AND/OR SCOPE OF DAMAGES TO THE BUILDING WHETHER OR NOT READILY ACCESSIBLE TO VIEW

Florida Statute § 627.707(1)(a) states as follows: "Upon receipt of a claim for a sinkhole loss, an insurer must make an inspection of the insured's premises to determine if there has been physical damage to the structure which might be the result of sinkhole activity." This sinkhole statute provision is simple and straightforward. The insured premises must be inspected to determine if there "might be" physical damage to the structure as a result of sinkhole activity. Nowhere does the statute limit the inspection to a premises' exterior portions, to damage that can only be viewed from any particular perspective within in the premises, to a specific portion of the premises, or to only damage **known** to have occurred due to sinkhole activity. Inclusion of the term "might be," indicates that inspection should be made of building areas that may be damaged due to sinkholes, and not strictly limited to areas known to be damaged by sinkholes. Inspection of areas that **"might be"** physically damaged due to sinkhole activity **necessarily** include areas that may be located behind or inside walls or floors or in any other areas that may not be readily accessible. Simply because an area in a covered property is not easy to reach or requires actual effort to inspect, should not result in its automatic exclusion from coverage.

In accordance with the Florida Legislature's intent, a proper inspection to determine physical damage to a building or structure naturally entails inspection of not only the superficial and visually obvious, but also probable damage behind walls, floors or like areas. Damage to a building due to sinkhole loss(es) can affect the exterior of a building or structure, as well as the interior infrastructure of a building or structure. Stretching, fraying and shifting of electric wiring systems, plumbing systems, etc., are all likely resultant damage from a sinkhole loss.

Terms utilized in an insurance policy should reflect every-day usage. *See Travelers Indem. Co. V. PCR, Inc.*, 889 So.2d 779, 799 (Fla. 2004). As discussed in Section I of this brief, the term "structure" means "[a]ny construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner. That which is built or constructed; an edifice or building of any kind. *Blacks Law Dictionary* 1276 5th Edition (1979). Accordingly, a building/structure's interior infrastructure whether it be inside walls, floors, or any other part of the structure, is a vital part of the whole building or structure. Its location behind a wall or floor, etc., should not, and does not, distinguish or separate it from other more visible, interconnected, integral building parts that may be damaged and covered. Accordingly, insurers should not have the prerogative to conveniently categorize such normally covered property areas as "hidden from view," thereby allowing such covered property areas to be declared off limits from sinkhole loss coverage. The term "hidden from view" is subject to many interpretations.

Depending on who, what or which entity is inspecting a property, and the corresponding effort extended in inspecting same; items that one inspecting entity may consider "in plain view," another inspector may consider "hidden from view" (i.e., areas behind stairs, inside chimneys, inside attics, through lofts). An interpretation which effectively denies coverage for everything "hidden from view", would negate the effect and intent of uniformity as implemented by the sinkhole statute and obscure the extent of an insurer's accountability to its insured. *The Cambridge Dictionary of American English* Cambridge University Press (2004)defines the term "inspection" as "a ***careful*** examination by an official to make certain that something is in good condition or that rules are being obeyed .... [and defines "inspect" as follows:]to look at (something or someone) carefully in order to discover information, esp. about quality or correctness."[4]

As an example, inspecting a building elevator that is out of order entails more than a visual look at the elevator cabin to check for dents or scratches. An adequate and meaningful inspection would require a careful examination of any connecting cables, motor and machinery components, etc., and other integral parts that may be inside, beneath, and not noticeable through a superficial glance.

Similarly, in attempting to assist Florida's insureds who may

[4] Numerous other dictionaries / source books interpret the term "inspection" or "inspect" as a careful and critical examination rather than as a quick, superficial glance (i.e., "1: to view closely in critical appraisal: look over 2: to examine officially" *Merriam-Webster Online Dictionary*; "1. A critical examination of somebody or something aimed at forming a judgment or evaluation 2. An official authoritative examination;" *MSN Encarta Dictionary*.

have sustained losses from sinkholes, it is doubtful that the legislature's intent was to have insurers implement casual, superficial visuals of possible sinkhole damage, and ignore possible damage to a building's internal components. The intent was for insurers to implement inspections of structures to determine if physical damage to the property exists, as clearly stated in the sinkhole statute.

One argument advanced is that inspection of such vital building systems, and the subsequent repair of same, if necessary, should not be covered under a policy's sinkhole provision because it would be considered "destruction and reconstruction of undamaged property." Construing such a basic, simple concept as inspection using the self-serving misnomer "destruction and reconstruction" in order to avoid coverage, negates and nullifies the obvious intent of the Florida legislature to work for the benefit of the general public when possible sinkhole damage is sustained. Words in an instrument should be given their natural or most commonly understood meaning. *See Gilmore v. St. Paul Fire & Mar. Ins.*, 708 So.2d 679, 680(Fla. 1st DCA 1998).

Several examples in other insurance contexts can be utilized to illustrate such a simple concept. Inspection of premises pursuant to a fire loss necessitates examination inside the walls in order to determine whether internal electrical wiring, etc. has been damaged as a result of fire. Inspection of premises as a result of windstorm often necessitates examination inside walls or beneath flooring to determine whether electrical wiring and/or plumbing damage has

occurred. An inspection to determine whether a leak exists behind a tiled wall in the shower area would naturally require examination behind the wall. Similarly, damage pursuant to sinkhole damage requires careful examination inside walls and other areas to discover if any damage has occurred to electrical wiring or other vital building structural components. It would be difficult, if not impossible to determine whether in-depth structural physical damage has actually occurred in such areas unless inspection of such areas has in fact, taken place. It would be an impossible "Catch-22" situation if one could only determine whether possible internal or infrastructure damage has occurred through inspection of such areas; however, once said areas are actually inspected, the insurer could deny coverage by contending such an "inspection" would be classified, using the insurance company's misleading terminology, "destruction and reconstruction."

Furthermore, once investigation and inspection of a property has commenced, and it has been determined that damage to the property has occurred due to sinkhole loss, focus of the inquiry switches to the factual circumstances concerning the scope of repairs. In other words, once coverage is "triggered," the scope of what is required to repair the property, is at issue. Consequently, the semantics of terms not even contained in the policy of insurance or sinkhole statute such as "hidden from view" and "destruction and reconstruction" are not only irrelevant but inapplicable. The primary emphasis is then on determining which parts of the covered property require repairs (i.e., exterior, interior, infrastructure, accessible, inaccessible, etc.).

Accordingly, it is then for the jury to determine whether the factual circumstances of the case fall within the scope of coverage as defined by the court. *Jones v. Utica Mut. Ins. Co.*, 463 So.2d 1153, 1157 (Fla. 1985); *see also Massa v. Southern Heritage Ins. Co.,* 697 So.2d 868 (Fla. 4th DCA 1997)*; American Reliance Ins. v. Martinez,* 683 So.2d 575 (Fla. 3d DCA 1996).

Two fallacious arguments have been advanced as a basis for an insurer not paying for inspecting inside walls, underneath floors, and other building infrastructure components. One argument is that it will increase costs to insurance companies. The second argument is that if no damage is discovered, the costs of repair will be passed on to the insureds who will be unable to pay for same, thereby rendering the property uninsurable. Both arguments are based on Florida Statute § 627.707(2) which discusses the two conditions under which an insurer can nonrenew a property insurance sinkhole claim filed for partial loss as follows:

> No insurer shall nonrenew any policy of property insurance on the basis of filing of claims for partial loss caused by sinkhole damage or clay shrinkage as long as the total of such payments does not exceed the current policy limits of coverage for property damage, and provided the insured has repaired the structure in accordance with the engineering recommendations ***upon which any payment or proceeds were based.*** Section 627.707(2)(2005).*(Emphasis added)*.

The first argument relative to cost is facially without merit. Insureds pay for insurance policies and coverage through premiums calculated and based on underwriting guidelines, and insurers' determination of risk and cost. *See generally Brookwood-Walton v. Agency for Health, 845 So.2d 223 (Fla. 1st DCA 2003); Seds, Inc. v. Hartford Fire Ins. Co.*, 724 So.2d 1258 (Fla. 4th DCA 1999); *Dade County*

v. American Re-Ins. Co., 467 So.2d 414 (Fla. 3d DCA 1985). The second argument is also without merit. Pursuant to Florida Statute § 627.707(2), nonrenewal is partly conditioned on the insured failing to repair the property in accordance with engineering recommendations, based on payment received from an insurer to repair same. In other words, an insurer may non-renew an insurance policy if (along with the aforementioned first condition) an insured receives insurance proceeds to repair property in accordance with engineering recommendations, and then utilizes said proceeds to repair the property without abiding by engineering recommendations. It is not based on an insurer's failure to find damaged property subsequent to an inspection, thereby resulting in an insured's inability to afford proper repairs on his/her own. Notwithstanding the foregoing, such nonrenewal argument has absolutely nothing to do with the issue of whether coverage exists for inspection of a property's infrastructure, walls, etc.

CONCLUSION

To achieve consistency and uniformity in interpreting insurance policies, it is essential that insurers are not allowed to pick and choose which property elements they choose to cover. When damage to a building occurs as a result of a sinkhole loss, repairs undertaken to the foundation system, which is one part of the whole structure of the building, necessarily require that such foundation system also be covered by the insurance policy.

The Florida legislature's intent in enacting Florida Statute §627.707(1)(a) was to require that insurers inspect insureds' properties to determine if there has been physical damage to such

properties as a result of sinkhole activity. To properly determine whether such damage has occurred, it is necessary to examine the complete structure, including external, internal and infrastructure components.

CERTIFICATE OF SERVICE

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that the size and style of type used in this *Amicus Brief* is 12 pt. Courier New.

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