

# FIRST-PARTY PROPERTY

*Jesus Guerra v. Defendant Insurance Company*

**Defense Verdict**



**LUKS, SANTANIELLO**  
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Plaintiff Counsel: Greenberg Stone & Urbano

On September 17, 2024, Miami Partners Otto Espino and Karma Hall obtained a defense verdict in a First-Party Property matter styled *Jesus Guerra v. Defendant Insurance Company*. The plaintiff filed suit against defendant alleging breach of contract in failing to pay benefits for a Hurricane Irma claim.

Plaintiff alleged he suffered roof damages and ensued rainwater leaks at his home as a result of the hurricane on September 10, 2017. However, the first notice of the claim was provided to Defendant on March 20, 2019 about 18 months later. During Defendant's inspection, the water damages inside the home were significant and advanced. However, the roof inspection did not find any wind-related damages. Defendant contended Plaintiff let the damages worsen since the date of loss and had failed to properly protect the property from continued water damages. Prejudice from the failure to protect the property and mitigate damages was Defendant's first affirmative defense.

At trial, the defense presented testimony from Ryon Plancer, P.E. while plaintiff presented testimony from Chris Thompson, P.E. The experts agreed as to the general weather conditions related to the storm. Both agreed the continued rainwater intrusions would worsen damages.

The experts disputed whether there were any storm damages. At the close of the Defendant's case, the Court entered a partial directed verdict, finding that notice was deemed late as a matter of law. The Court instructed the jury that they were only to consider whether plaintiff had removed Defendant's presumed prejudice from this late notice. The jury deliberated for one hour before returning a defense verdict on the issue of prejudice. Post trial motions are pending. The defense is entitled to prevailing party costs and will be seeking recovery of attorney fees based on a proposal for settlement.