

THOUGHT LEADERSHIP

News

SUMMARY JUDGMENT GRANTED IN FAVOR OF WRITE-YOUR-OWN FLOOD INSURER – NO FLOOD COVERAGE FOR GROUND FLOOR OF ELEVATED BUILDING

Newsbrief

17 JUN 2020

Last Wednesday, the U.S. District Court for the Southern District of Texas found that a finished ground-floor was not covered under flood policy issued on an elevated residence, and summary judgment was granted in favor of the insurer. In *Nazmudin v. American Bankers Insurance Company of Florida*, 2020 WL 3077860 (S.D. Tex. June 10, 2020), the insured residence was originally built and insured as an elevated structure in 1974, but the ground floor was later finished and enclosed when it was flooded by Hurricane Harvey in August 2017. The insurer paid for the second-floor damage under the flood insurance policy but denied coverage for the first or ground floor under the terms of the policy. The insured argued that because one side of the first floor was at ground level, their home was not elevated and coverage for the ground floor should be afforded.

In granting summary judgment in favor of the insurer, the court observed that the policy's declaration page described the insured property as "Elevated with Enclosure" and the declarations page is part of the policy. The court also considered the *National Flood Insurance Program Adjuster Claims Manual* which warns homeowners that "[s]tructures that are misrated should be reported to the company's underwriting department as soon as possible after the potential error is discovered." And there is no record to support that any such report was made. Obligated to strictly adhere to the payment terms and conditions put in place by Congress, the insurer's motion for summary judgment was granted and the case dismissed with prejudice.

Editor's Note: This case serves as a reminder to agents and insureds, as we enter a new storm season, to review policies and coverage to help avoid the harsh consequences of outdated or inadequate coverage.