

THOUGHT LEADERSHIP

News

## INSURER WINS SUMMARY JUDGMENT ON BURST PIPE CLAIM DUE TO FAILURE TO SEGREGATE DAMAGES

Newsbrief

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A federal judge in Houston recently granted summary judgment for a property insurer after the insured failed to demonstrate its claimed damages were actually caused by a burst pipe during the policy period, rather than the long history of other losses. *Henry v. Allstate Veh. & Prop. Ins. Co.*, No. 4:20-CV-310, 2021 WL 1132812 (S.D. Tex. Mar. 24, 2021). A homeowner submitted numerous claims over a period of ten years. One of the later of these claims was for a burst pipe in a second-floor bathroom, which caused water damage to the first floor kitchen below. Allstate denied the claim on the ground that it was not sudden and accidental but was actually the result of ongoing leakage from a faulty expansion joint.

There was evidence the homeowners had submitted at least four prior claims for water damage to the kitchen area, but their own testimony and their expert report failed to make any effort to distinguish between damage caused by the current loss versus previously reported losses that were years old, or that the loss being claimed was even a new one and not existing damage that had occurred over a year earlier. Because the homeowners could not establish coverage for the claim, the court also dismissed their extracontractual claims.