



Lisa Miller & Associates

Business Development, Government Consulting, Public Relations

LMA NEWSLETTER

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Another Day, Another DCA Decision

Different District Courts of Appeal Rule Differently on Treatment of AOB Policy Language

Here at Lisa Miller and Associates, we continue to follow Assignment of Benefits (AOB) issues very closely, not only in the Florida Legislature and the Office of Insurance Regulation (OIR), but in the Florida Courts as well. Readers of the [November 13 edition](#) of the *LMA Newsletter* will recall our story on the recent ruling by Florida's Second District Court of Appeals (DCA) in Lakeland in favor of an insurer's restriction on the use of an AOB. In that case (*Bio Logic, Inc. vs. ASI Preferred Insurance Corp.*), the 2nd DCA allowed ASI to keep its policy language requiring that an insured party, such as the bank as mortgager, has to sign off on an Assignment of Benefit (AOB). If the bank doesn't, then the AOB isn't valid.

Well now comes a decision last week by another DCA, the Fifth District Court of Appeal in Daytona Beach, which ruled that Security First Insurance Company should be restricted from having the same language regarding AOBs in its policies. Security First had sought permission from OIR to add the language but was rejected by OIR and upon appeal, by a Florida Department of Administrative Hearings officer as well. The Fifth DCA noted that the hearing officer concluded "restriction on the right of a policyholder to freely assign his or her post-loss benefits is prohibited under Florida law."

Further, the court wrote: "Review of the case law relating to the subject of the assignability of post-loss benefits reveals that Florida courts have been previously invited to consider these public policy arguments; however, the district courts have refused these invitations, concluding that such considerations are for the Legislature to address."

So for now, one could be left to conclude that we have two different sets of rules existing in one state insurance marketplace. No word yet on whether this latest decision will be appealed to the Florida Supreme Court. Stay tuned!