

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CERTIFIED PRIORITY RESTORATION

a/a/o **CHERYL COAKLEY**,
Appellant,

v.

UNIVERSAL INSURANCE COMPANY OF NORTH AMERICA,
Appellee.

No. 4D21-245

[August 18, 2021]

Appeal from the County Court for the Fifteenth Judicial Circuit, Palm Beach County; Edward A. Garrison, Judge; L.T. Case Nos. 502019CC000003XXXXMB and 502019AP000194CAXXMB.

Kristin E. Marrero and Karla Lockwood of The Mineo Salcedo Law Firm, P.A., Davie, for appellant.

Thomas A. Valdez and Vilma Martinez of Quintairos, Prieto, Wood & Boyer, P.A., Tampa, for appellee.

KUNTZ, J.

Certified Priority Restoration (CPR), an assignee of the insured, Cheryl Coakley, appeals the county court's order granting final summary judgment to the insurer, Universal Insurance Company of North America.

CPR raises one issue on appeal. CPR argues the county court erred when it granted summary judgment to the insurer based on the insurer's accord and satisfaction affirmative defense. We addressed this argument in a case involving the same parties, and same insured, in an opinion also issued today. *See Certified Prop. Restoration a/a/o Coakley v. Universal Ins. Co. of N. Am.*, Case. No. 4D21-374 (Fla. 4th DCA Aug. 18, 2021).

In the related opinion, we concluded that the insurer failed to establish accord and satisfaction. But we affirmed because the insurer argued a second affirmative defense that supported summary judgment. As in that case, here, the insurer based its motion for summary judgment on two affirmative defenses. First, a defense that the insurer paid the total

amount due. Second, a defense that summary judgment was required based on statutory accord and satisfaction. While the motions in the county court were similar, in this appeal, the insurer relies solely on the accord and satisfaction defense. As such, we must reverse. Our reversal is without prejudice to the insurer's right to move for summary judgment on the defense that it paid the maximum amount due under the policy. We express no opinion on the merits of any such motion.

The county court's summary judgment is reversed for further proceedings.

Reversed and remanded.

DAMOORGIAN and ARTAU, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.