

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

UNIVERSAL PROPERTY & CASUALTY INSURANCE COMPANY,
Appellant,

v.

EDWARD NAVLEN and SAUNEE NAVLEN,
Appellees.

No. 4D2022-1590

[September 20, 2023]

estimate, any repair receipts, and attached the portion of the policy that included the proof of loss requirement.

In response, Horizon sent Universal a preliminary estimate and photos. After inspecting the property, Universal sent the insureds a letter partially denying coverage and otherwise declining to pay, as the loss was below the policy deductible. The insureds paid for a new roof and sued Universal.

Our focus in this opinion is on the insureds' expert. Before trial, Universal moved to exclude the insureds' expert, claiming it had requested the expert's report multiple times but had not received the report, in violation of a pretrial order. The insureds argued they had disclosed the expert in advance but acknowledged they only had provided the expert's report at the pretrial hearing. Rather than striking the testimony, the circuit court allowed Universal to take the expert's deposition before trial.

After taking the expert's deposition, Universal objected to the admissibility of the expert's testimony. Universal argued, among other things, that the expert: (i) did not inspect the roof before it was replaced; (ii) formed opinions based on inspecting neighboring adjoining roofs; (iii) took no position about the percentage of the roof that was damaged; (iv) said the wind speeds were 60–70 mph but indicated those measurements were taken over 17 miles away from the property; (v) based his opinion on “Benchmark” data that was not included in his report and based on an algorithm; and (vi) could not rule out other potential causes.

The trial court rejected Universal's objections to the admissibility of the expert's testimony.

ii. Analysis

Expert testimony is governed by section 90.702, Florida Statutes (2021). Section 90.702 codifies the ¹ standard and requires that expert testimony (1) be “based upon sufficient facts or data”; (2) be “the product of reliable principles and methods”; and (3) show that the expert “applied the principles and methods reliably to the facts of the case.”

To determine the reliability of an expert's opinion, ² outlined a list of non-exhaustive, non-mandatory factors to consider, including “(1) ‘whether [the] theory or technique . . . can be (and has been) tested’; (2) ‘whether the theory or technique has been subjected to peer review and

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, 509 U.S. 579 (1993).

2004));
2015).

, 180 So. 3d 1127, 1133 (Fla. 1st DCA

Here, the expert did not attempt to explain his conclusion. Instead, he