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Indemnity Insurance Co. of North America, Inc. v. American Aviation, Inc.

Case No. SC03-1601 (Fla. Dec. 23, 2004)

The Supreme Court of Florida in *Indemnity Insurance Co. of North America, Inc. v. American Aviation, Inc.*, held that the economic loss rule, which precludes tort claims for purely economic losses, applies only where: (1) the plaintiff and defendant are in contractual privity, or (2) the defendant manufactures or distributes a defective product that damages only itself. The Court further confirmed that the rule was also subject to a number of established exceptions, such as for torts independent of any contractual breach, intentional torts, and professional negligence.

As the claim at issue in *Indemnity Insurance* involved negligent performance of services, brought by a plaintiff who was not in privity with the defendant, the Court held the economic loss rule had no application. The Court expressed no opinion, however, whether the plaintiff had stated a cause of action, and held that the issue should be analyzed under traditional negligence principles of duty, breach and proximate cause. In a concurring opinion, Justice Cantero predicted that the Court's holding would not open the gates to widespread recovery of economic losses, because the requirement that a plaintiff establish the existence of a tort duty to protect the plaintiff's economic interests would "continue to weed out most claims for purely economic loss."

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