

The Three “Musts” for a Competent Affidavit or Declaration

“Florida’s Second District Court of Appeal recently issued a decision that serves as a reminder not to take for granted a proposition that most practicing attorneys regularly encounter: a motion for summary judgment must be supported by competent evidence, and an affidavit that does little more than mimic the motion for summary judgment will not suffice.” write Dean A. Morande and Rachel A. Oostendorp in Carlton Fields *Insights*.

“In *Rodriguez v. Avatar Property & Casualty Insurance Co.*, a plaintiff sued her insurer, alleging that it had breached her homeowners insurance contract by denying coverage for water damage. The trial court granted the insurer’s two separate motions for summary judgment” which the Second District reversed “concluding that the 37-page affidavit lacked sufficient information to demonstrate that the affiant possessed the competency or personal knowledge to testify on those matters, which ranged from contract interpretation to trade specialties of plumbing and contracting. ”

Further, “The affidavit failed to identify her title or corporate duties, did not state that it was made on personal knowledge, and did not set forth her relevant skill set or experience.”

Read the article for the three “musts”.