

NJ Justices Rescue Builders From Limbo In Faulty Work Case

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Sherilyn Pastor

New Jersey's high court ruled Thursday that damages stemming from a subcontractor's faulty workmanship can be covered under a general contractor's commercial general liability policy, blunting a decades-old precedent that insurers have wielded to deny coverage for such claims and providing clarity for builders embroiled in defect litigation, experts say.

In a unanimous opinion, the New Jersey justices affirmed a state appeals court's July 2015 ruling that damage to the common areas of a Hoboken luxury condominium complex and to unit owners' property caused by subcontractors' defective work constitutes "property damage" and an accidental "occurrence" under the general contractor's commercial general liability policies. An association representing the unit owners, Cypress Point Condominium Association Inc., had sought coverage for the damage under policies issued to general contractor Adria Towers LLC.

With the decision, the New Jersey Supreme Court joined two dozen other state high courts that have ruled that damages from a subcontractor's faulty workmanship can be covered by the general contractor's CGL policy. By contrast, only five state supreme courts have ruled that CGL policies don't cover such damages.

According to experts, the ruling marks a major victory for general contractors and real estate developers in the Garden State, which have long faced uncertainty over whether they can seek CGL coverage for property damage attributed to subcontractors' shoddy work.

"This blows out of the water arguments that insurers have been relying on for years in making erroneous denials of claims," said Sheri Pastor, leader of McCarter & English LLP's insurance coverage group.