

New Jersey Supreme Court to Address Construction Defect Coverage Issues

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On October 30, 2015, the New Jersey Supreme Court granted a petition for certification in *Cypress Point Condo. Ass'n v. Adria Towers, L.L.C.*, 441 N.J. Super. 369 (App. Div. 2015) ("Cypress Point").

The petition was filed by insurer defendants and seeks review of the Appellate Division's decision that damage to a condominium caused by the negligence of subcontractors is "property damage" caused by an "occurrence" within the meaning of those terms in a general liability policy issued to a general contractor. The Appellate Division's decision in *Cypress Point* is contrary to a prior Appellate Division decision, *Firemen's Ins. Co. v. National Union Fire Ins. Co.*, 387 N.J. Super. 434 (App. Div. 2006), that held that damage to a condominium caused by a general contractor's subcontractors did not constitute "property damage" caused by an "occurrence."

Petitions for certification remain pending before the Supreme Court in two cases that resulted in unpublished Appellate Division decisions, *Belmont Condo. Assoc., Inc. v. Arrowood Capital Corp.*, A-4187-12T4 (2015), and *Bob Meyers Communities, Inc. v. James R. Slim Plastering, Inc.*, A-5581-12T1 (2015). In each of those decisions, the Appellate Division relied on its decision in *Cypress Point* to hold that damage to a condominium caused by a general contractor's subcontractors was "property damage" caused by an "occurrence" as those terms were defined in the general contractors' policies. Given the Appellate Division's reliance on *Cypress Point* in these two unpublished decisions and the Supreme Court's decision to review the Appellate Division's decision in *Cypress Point*, we believe the Supreme Court will either grant the petitions for certification in these two cases or stay any further proceedings pending the outcome of the review of the *Cypress Point* decision.

If there are any questions about the petitions for certification and the subject cases or the status of the petitions before the Supreme Court, kindly contact Kevin E. Wolff or Julia C. Talarick.