

## **COURTROOM NEWS**

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Date: 20 May 2009

### **CGL Insurer Seeks Coverage Ruling on Drywall Claims Against Contractor**

WEST PALM BEACH, Fla. — A declaratory judgment action has been filed in Florida to determine whether General Fidelity Insurance Co. has an obligation to cover Chinese drywall claims asserted against a general contractor that has purchased policies from the insurer since 2006. *General Fidelity Insurance Co. v. Foster, et al.*, No. 09-80743 (S.D. Fla.).

The suit was filed May 18 in the U.S. District Court for the Southern District of Florida, where General Fidelity's insured, Northstar Holdings Inc., was sued for subcontracting construction work to a company that installed allegedly defective drywall in several homes.

According to the underlying putative class action, Northstar built a home in 2006 that was purchased by Katherine Foster. Northstar entered into a subcontract agreement with Precision Drywall to install drywall that Foster says emitted various sulfide gases and other chemicals, causing her to suffer bodily injuries and property damage.

Fidelity maintains that it issued commercial general liability policies to Northstar each year from October 2006 to October 2009, but that none of the policies cover bodily injuries, property damage, or other damages caused by emissions of gases or fumes from defective drywall. The policies also do not cover costs to repair or replace the drywall, Fidelity says.

The insurer wants a judge to determine that the "your work" and total pollution exclusion contained in the policy, and later replaced by a "Florida Total Pollution Exclusion Endorsement" apply to preclude coverage of the class claims.

"There exists a bona fide, actual, present and practical need for a legal determination by this Court of the duties, rights and obligations, if any, of General Fidelity with regard to injuries and damages arising out of the defective drywall," the complaint says. "Pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2201, General Fidelity is entitled to a declaration that the Policies provide no coverage available for any claims with respect to the allegedly defective drywall."

General Fidelity is represented by Louis Schulman of Butler Pappas Weihmuller Katz Craig in Tampa, Fla.

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