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Georgia Supreme Court Rules Construction Defects Satisfy CGL Policy's 'Occurrence' Requirement

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Homeowners sued their homebuilder alleging that the concrete foundations of their homes were improperly constructed. As a result, it was alleged that the foundations were failing, and the defects in the foundations had caused "tangible physical damage" to the homes built atop them. The homeowners asserted both breach of warranty and fraud. The Georgia Supreme Court held that the defective construction work can be covered under the standard commercial general liability (CGL) policy as an "occurrence." Georgia law does not require there to be damage to "other property," that is property other than the insured's completed work itself.

The impact of this ruling on the construction industry in Georgia is that there is insurance coverage for construction defects. The court found that breach of warranty claims can satisfy the "occurrence" requirement in the policies. It is likely that a breach of contract claim will too.

Contact the Construction attorneys in the Atlanta office if you have any questions: Linda Klein, John Hinton, Ben Shapiro and Fielder Martin.

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