

CASE UPDATES



Decades of strategic case development and trial experience.

WSHB CASE UPDATE – CALIFORNIA SUPREME COURT DECLINES TO REVIEW CASE ON APPLICATION OF CALIFORNIA'S RIGHT TO REPAIR LAW

12.11.13

On December 11, 2013, the Supreme Court of California denied the closely watched Petition for Review in *Liberty Mutual Insurance Company v. Brookfield Crystal Cove LLC* as well as the Requests for Depublication of the lower court's decision.

The construction community was hopeful that the Supreme Court would provide clarity regarding the Fourth Appellate District's perplexing interpretation of the application of Senate Bill 800. The Court of Appeal narrowly interpreted Senate Bill 800 to apply to cases involving economic damage alone. In reaching its decision, the Court arrived at conclusions at odds with the express language of the statute and drew the right of builders to repair construction defects causing actual damage into question. See our September 27, 2013, update for further details - *New Ruling Incites Turmoil Over the Application of Senate Bill 800*.

What This Means

With the current avenues of appeal on the Liberty Mutual decision exhausted, the construction industry has two avenues. First, the construction industry should lobby the Legislature to take action to overrule the decision and clarify the statutory intent of the fix it legislation. Second, parties should seek opportunities to distinguish the Liberty Mutual decision by limiting its application to specific instances of identical facts, by pressing Courts for accurate interpretation of the legislation, and by bringing the matter back for review if not cured by legislative action.

Simply because the Supreme Court denied review at this juncture does not mean that it agrees with the Fourth Appellate District's interpretation. The Supreme Court may believe that the Legislature will take action to legislatively overrule the decision and further clarify the statutes. Alternatively, if the Legislature doesn't act the Supreme Court may simply be waiting for other Districts to weigh in before it takes the matter up for review.

RELATED SERVICES

Construction