



## Pennsylvania Superior Court Denies Insurance Coverage for Faulty Workmanship

By Lauren W. Taylor

On December 28, 2007, the Pennsylvania Superior Court affirmed the lower court's decision that Millers Capital Insurance Company had no duty to indemnify and/or defend Gambone from claims by homeowners for damage to their homes resulting from "construction defects and product failures."

In *Millers Capital Insurance Company v. Gambone Brothers Development Co., Inc., et al*, 2007 PA Super 403 (Pa Super. 2007), the homeowners averred that Gambone had built their homes with defective stucco exteriors and windows that leaked and caused water damage to the interiors. The policies issued by Millers to Gambone for the homes provided coverage for property damage caused by an "occurrence," which was defined in the policies as "an accident, including continuous or repeated exposure to substantially the same general harmful conditions."

The court held that the homeowners' complaints were based on claims for faulty workmanship and that faulty workmanship claims do not present the degree of fortuity to fall within the ordinary definition of an "accident," even when exacerbated by rainfall. As a result, the allegations made by the homeowners against Gambone could not be deemed "occurrences" and were not covered by Millers' insurance policies. In light of this decision, developers should carefully review their insurance policies to ensure they are protected from such liability.

For more information, please contact Lauren W. Taylor at 215.918.3625 or [lwtaylor@foxrothschild.com](mailto:lwtaylor@foxrothschild.com).



Fox Rothschild LLP  
ATTORNEYS AT LAW

© 2008 Fox Rothschild LLP. All rights reserved. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.