

Wisconsin appellate court denies insurance coverage to a contractor because work was performed on a building that had synthetic stucco.

Article

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A slew of lawsuits has plagued the construction industry regarding the use of exterior insulation and finish systems, also known as EIFS or synthetic stucco. Insurance companies were historically required to pay money towards those claims under standard commercial general liability policies. As they did in response to lawsuits involving asbestos and environmental contamination, insurance companies reacted by changing their policy language to limit or eliminate their liability for synthetic stucco claims.

The Wisconsin Court of Appeals, in *Kaitlin Woods Condominium Association v. Nautilus Insurance Company*, enforced a broad reading of the synthetic stucco exclusion in favor of the insurance company, and against a general contractor that developed multiple condominiums. In that case, the owner of the condos claimed that the general contractor's poor management of the construction and subcontractor's defective work resulted in water leakage through the exteriors of condo buildings, causing property damage. An endorsement to the insurance policy excluded coverage for claims of defective work on any part of the exterior of a building on which synthetic stucco had been applied.

Enforcing the exclusion, the court found that the exclusion precluded coverage for **any** defective work, of **any** kind, completed on **any** part of the exterior of the structure, whether it related to the synthetic stucco or not. The court found that the exclusion was so broadly worded that it would even preclude coverage for a roofing contractor whose shoddy workmanship allowed water to leak through the roof into the interior of the building. The court essentially found that the exclusion applies to **all** work that was performed by the general contractor or its subcontractors with respect to **any** exterior component, fixture or feature, including design, project management and supervisory services.

This case demonstrates how important it is for contractors doing any work on a structure containing synthetic stucco to carefully review their insurance policies before commencing work. Even if there is only a small amount of synthetic

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stucco on a building, and even if the contractor's work is wholly unrelated to the synthetic stucco, the contractor's policy may not provide coverage for the sole reason that synthetic stucco is somewhere on the structure.

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