



## Insurance – Condominium conversion exclusion

*U.S. District Court*

By: Tom Egan ☉ May 21, 2018

Where an employee of a subcontractor was injured while performing elevator decommissioning work on a building being converted into a condominium, the contractor is entitled to judgment on the pleadings regarding a commercial lines policy issued by an insurance company, as the policy's condominium conversion exclusion does not apply.

"All parties agree for present purposes that the exclusion's language — 'has been converted, changed or modified at any time ... to condominiums' — would preclude coverage of liability arising in relation to work on a building that already had been converted from apartments to condominiums. The parties also agree that the apartment building in which [Gary F.] O'Brien's injuries occurred had not yet been so converted. Rather, the parties dispute whether the exclusion encompasses an apartment building that is in the process of being converted to condominiums and, if so, whether the construction project here involved a building being converted to condominiums at the time of Keystone's work. ...

"The Court interprets the exclusion strictly to encompass structures already converted to condominiums, and not structures in the process of being converted to condominiums. Therefore, Admiral [Insurance Company]'s complaint fails to state a claim for declaratory relief, because it does not allege an exclusion that plausibly could apply to Keystone's work on the structure in this case. It is therefore dismissed.

"Separately, Keystone requests that the Court award its legal expenses incurred as a result of this declaratory judgment action. ... Here, by establishing the inapplicability of the exclusion that Admiral invoked, Keystone has 'establish[ed] [Admiral's] continuing duty to defend' and is thus entitled to recover its legal expenses from Admiral."

*Admiral Insurance Company v. Keystone Elevator Service & Modernization, LLC, et al. (Lawyers Weekly No. 02-264-18) (6 pages) (Sorokin, J.) (Civil No. 17-11524-LTS) (May 16, 2018).*

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