

JUDGMENT FOR INSURANCE CARRIER FINDING NO COVERAGE IN \$400,000 CONSTRUCTION DEFECT AWARD

Missouri - Watters Wolf Bub Hansmann

The Federal District Court of Kansas granted Summary Judgment for the WWBH client EMC Insurance Co in a construction defect case finding there was no coverage for a \$410,000 arbitration award against EMC's insured window installation contractor. In the arbitration the insured had been found liable for over 100 leaking windows that had been installed at the Edwards County Kansas Courthouse by the EMC's insured and the windows needed to be replaced. The arbitrator found that the contractor had ignored the architect's plans and specifications for the window installation and as a

result many of the newly installed windows were leaking and those that were not currently leaking were likely to leak in the future. The court held that because the contractor intentionally ignored the plans and specifications there was no "occurrence" as defined by the policy since it was an intentional act and further no property damage as defined since the failure to follow the plans and specifications did not cause property damage as defined by the policy to date, but the windows installed had to be replaced at a cost of \$400,000. Tim Wolf and Cary Simowitz of WWBH represented EMC.



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Timothy Wolf is battle-tested in successfully representing his clients in "bet your company" type cases. He provides counsel to his clients on primary and excess property and liability policies with an emphasis on catastrophic injury claims and complex coverage issues. He has published articles and often speaks to industry professionals regarding insurance regulations and proper claim handling procedures. His broad insurance background includes litigating all aspects of insurance cases involving property and casualty insurance.



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Cary Simowitz is a senior associate trial lawyer who focuses his practice defending businesses, individuals, and insurers involved in lawsuits throughout the state of Missouri. In addition, he is part of the firm's insurance coverage practice group concentrating on lawsuits involving first and third-party coverage interpretation and issues of potential arson/fraud in submitting insurance claims.