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MIND OF A LAWYER. HEART OF A CONTRACTOR.

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## **Oregon Case Allowing Building Code Negligence Claim Under Review**

A few months ago, [we wrote about an appeals decision in Oregon that carved an exception to the economic loss rule](#) in a construction defect case, allowing a plaintiff to sue for negligence when a builder doesn't comply with building codes.

That opinion - [Abraham v. T. Henry Construction, Inc.](#), 230 Or.App. 564 (2009) - has been sent to the Oregon Supreme Court for review, and oral arguments were heard last month. [You can read the Oregon Supreme Court's media release here.](#) The media release does a great job of outlining the issues at stake in the case.

The two issues of particular interest to the state's application of the economic loss rule are identified in the media release as so:

1. If a property owner alleges that his or her contractor violated the "building code," whether the property owner has a negligence claim when the contract between the parties expressly required the contractor to follow all building codes.
2. Whether the Oregon Residential Building Code sets forth a standard of care independent from the contract between a property owner and a contractor or subcontractor, and thus permits imposition of negligence liability, when the parties' contract expressly requires compliance with all building codes.

Stay tuned at the Construction Law Monitor, as we'll monitor the outcome of this case.