



Virginia Construction Law Roundup



Recently the state and federal courts here in the Commonwealth of Virginia made two construction law rulings that I thought you all would find interesting.

The first of these involves the infamous [Chinese drywall](#) discussed in this blog on a couple of occasions. In another ruling in the continuing saga of [Dragas Management](#) (remember the company that [tried to do the right thing?](#)), the Norfolk, Virginia Federal District Court was faced with a summary judgment motion from Dragas. In [Dragas Mgmt. Corp. v. Hanover Ins. Co.](#) (PDF), Dragas sought to enforce an arbitration judgment against its drywall subcontractor's insurance carriers. The Court determined that, while the replacement of the drywall itself in the 74 homes was not an "occurrence" under the various insurance policies, the resulting replacement and repair of non-defective components of those homes are "occurrences" covered by the policies. Additionally, each replacement of drywall and repair of a home (all 74 of them) were a separate covered occurrence. It looks as if Dragas may finally get a bit of a win in this saga.

The second is a state Circuit Court case out of [Fauquier County, Virginia](#). In [Zarabi v. MSH Construction Inc.](#) (PDF) the Virginia trial court considered a claim by the homeowners for damages due to water damage that they claimed was caused by faulty construction. In a prior ruling on MSH's Motion for Summary Judgment, the Court dismissed the negligence count of the Complaint but allowed a claim for breach of warranty to survive. In ruling upon the Motion to Reconsider filed by the contractor, the court sustained its prior ruling and allowed the warranty claim to go forward. The Court further reasoned that because the warranty claim was based in contract and that the Complaint was based upon a breach of a written contract that Virginia's 5 year statute of limitations for such claims applied.

Both of these cases have a long way to go. These Courts still have to apply the facts to these legal rulings. However, these cases should add a few arrows to the quivers of [construction attorneys](#) and their clients should they find themselves in similar situations to Dragas and the Zarabis.

Image via [Wikipedia](#)

Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.