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New Jersey Appellate Division Holds That “Wrongful Eviction” Under Coverage B Requires a Claim to Superior Possessory Interest in Property

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Watford Specialty Insurance Co. v. MDF 92 River St., LLC 2023 N.J. Super. Unpub. LEXIS 2388 (N.J. Super. Ct. App. Div. Dec. 22, 2023)

December 22, 2023, the Appellate Division of the New Jersey Superior Court held that a claim for “wrongful eviction” requires a claim to superior possessory interest in real property in order to trigger Coverage B of a general liability policy. The insured operated a bar from which an unruly patron was ejected by bouncers and allegedly injured. When the patron sued for assault and battery, the insurer advised that the policy’s sublimit for such claims was significantly eroded. Thereafter, the injured plaintiff amended his claim to allege that he was “wrongfully evicted from the premises that he was occupying,” causing his injuries. The plaintiff argued that “wrongful eviction” included general occupancy of the bar, not only a claim to superior possessory interest in such property. The court was unpersuaded, citing *Powell v. Alemaz, Inc.*, 760 A.2d 1141 (N.J. Super. Ct. App. Div. 2000), in which the Appellate Division held that a claim for housing discrimination by a rental agency did not qualify for coverage under Coverage B and that there must be a real property possessory interest at issue in the claim against the insured in order for Coverage B to apply.