

June 1, 2020

# Partner Eric D. Suben and Associate Vito John Marzano Obtain Dismissal of Claims against Insurer in Coverage Dispute

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Plaintiffs sued insurer seeking a judicial declaration that they are entitled to coverage for damage caused by construction work on June 20, 2017 to their respective properties. The complaint attached and incorporated by reference a certificate of liability insurance ("COI") indicating that the policy issued by the insurer was in effect on the date of the incident. The policy, however, explicitly limited coverage to damages that occur within the policy period. The policy expired on October 19, 2016, more than eight months prior to the incident. Accordingly, Traub Lieberman moved to dismiss plaintiffs' claims against the insured on the basis that the policy, which constitutes documentary evidence, does not provide any coverage to plaintiffs.

Plaintiffs contended that the dates on the COI create an issue of fact as to the existence of coverage. Traub Lieberman countered that a COI does not, by itself, establish coverage. Further, the COI at issue here expressly states that it does not confer additional rights to the holder, does not modify the terms of the policy, and that it was issued as a matter of information only. The court accepted the policy as documentary evidence and rejected the COI, reasoning that in itself, the COI was insufficient to create an issue of fact. The court granted Traub Lieberman's motion to dismiss all claims as asserted against the insurer.