

## Insurer Avoids Covering Waterproofing Co.'s Faulty Work Suit, Law360, featuring Christopher Tellner and David Brown, November 4, 2021

Atain Insurance Co. does not have to defend a waterproofing company in a suit alleging it put a house in danger of collapse, a Pennsylvania federal judge said, finding that the company is facing claims of faulty workmanship, not an accident that would trigger coverage.

U.S. District Judge Karen S. Marston said Wednesday that under Pennsylvania law, Gary Budman's allegations against Basement Waterproofing Specialists Inc. don't qualify as occurrences under its policy with Atain. "Atain argues that Budman's assertion that Basement Inc. acted negligently when professionally servicing his home boils down to a claim for faulty workmanship, which does not constitute an occurrence," Judge Marston wrote. "We agree." The suit from Atain stems from Basement Waterproofing's work on Budman's New Jersey home in March 2020, according to the ruling. Water would accumulate around one of the front walls of his home and enter the basement, so Budman asked Basement Waterproofing for advice, according to the ruling. A Basement Waterproofing representative recommended a new drain system, without consulting an engineer, according to the ruling, and Budman agreed to pay \$16,000 to have it installed, the wall reinforced and a crack repaired.

It rained the evening after the work was completed, according to the ruling, and the next day,...