



Generally CGL insuring agreements cover “damages” because of “property damage” caused by an accident. Generally coverage is provided for “liability that the insured becomes legally obligated to pay as damages because of bodily injury or property damage caused by an occurrence”.

The Texas Supreme Court held in 2007 that faulty workmanship resulted in “property damage” which can constitute an “occurrence” under Texas law. *Lamar*

Homes, Inc. v. Mid-Continent Cas. Co., 242 S.W.3d 116 (Tex. 2007). However, attorneys’ fees awarded to the claimant are not currently covered as “damages”. In *Re Nalle Plastics Family Ltd. P’ship*, 406 S.W.3d 168, 173 (Tex. 2013). See *Mid-Continent Casualty Company v. Petroleum Solutions Inc.*, 2016 WL 5539895 (S.D. Tex. 2016).





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To “Go Green”, our firm uses recyclable paper or ceramic cups and no longer uses Styrofoam cups. In addition, we have adopted a less-paper office environment.

We hope that these changes make big differences in the future.

Well done is better than well said.

- Benjamin Franklin



The coverage insurance issue here was the definition of “damages”. The Texas court said attorney’s fees are costs, but not “damages”. *Anadarko Petroleum Corporation v. Houston Casualty Company*, 573 S.W.3d 187, 196 (Tex. 2019). The Texas legislature rode to the rescue, and during the 2020–2021 session enacted an amendment to Section 38 of the Texas Civil Practice and Remedies Code defining attorneys’ fees as compensatory damages.

As such, for construction contracts signed after September 1, 2021, an award of attorneys’ fees constitutes compensatory damages. Such attorneys’ fees should be covered as additional compensatory damage resulting from the property damage underlying the claims.

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