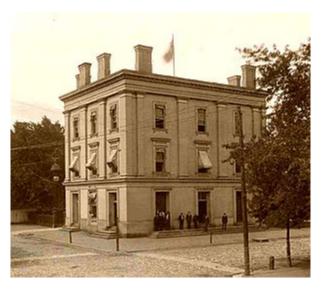## Dragas Management: The Saga Continues

I am beginning to think that I should start a page just dedicated to the Dragas Management Chinese Drywall saga. If you remember, Dragas is the company that tried to do the right thing and help its customers. However, it made the mistake of doing this without a "claim" so its insurance did not need to pay off. Later, it won a bit of a victory when the Norfolk, Virginia Federal district court determined that each of the 74 instances of damage to non-drywall components constituted a separate "occurrence" under the relevant insurance policies.

Not to allow this victory to stand for long, in what I will dub Dragas V (yes 5, though I may have lost count at this point), the Court made that ruling a Pyrrhic victory when it determined that the "pollution exclusion" under all of the policies barred any coverage or duty to pay for any of the damage on behalf of the now defunct drywall supplier to the projects. The Virginia court focused not on the drywall itself, but from the sulfur gasses that emitted from the Chinese drywall. Once the Court made this step, the remainder of the analysis was easy because the emissions were clearly pollution in any sense of the word.

I sense that this long and winding tale is far from over. Chinese drywall continues to be a problem and I cannot see Dragas taking this matter lying down. In any event, I recommend that you read this series of cases (just plug the term "Dragas" into my handy search box to find them), whether as a construction professional or a construction lawyer. These cases give a great overview of how a court will analyze an insurance policy and the claims made against those policies. Of course, given the fine distinctions made by the Court, consultation with an experienced construction attorney will go along way toward making sure your claim or defense is properly presented.

Image via Wikipedia

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