



NEWMAYER & DILLION LLP

CALIFORNIA SUPREME COURT CONFIRMS SB800 AS EXCLUSIVE REMEDY, DISAPPROVES LIBERTY MUTUAL

Thursday, January 18, 2018

N&D proudly announces that the California Supreme Court has unanimously agreed with our position and has ruled in support of the Right to Repair Act.

The Supreme Court has spoken: The Legislature said what it meant, and meant what it said. In its decision in *McMillin v. Superior Court (Van Tassell)*, the California Supreme Court confirmed that the Right to Repair Act is “the exclusive means of recovery for damages identified in [SB800] absent an express exception,” such as contract, warranty, and fraud. The Supreme Court held that even if a plaintiff tries to plead around SB800, the builder can still enforce the right to repair. The Supreme Court disapproved *Liberty Mutual Ins. Co. v. Brookfield Crystal Cove LLC (2013) 219 Cal.App.4th 98*, in which a lower court had held that the Right to Repair Act was never intended to supplant common law causes of action like negligence and strict liability.

This morning’s decision will assist building industry participants in enforcing their statutory right to repair against law firms that file lawsuits on homes never presented to the builder for repair, consistent with the briefing filed by Newmeyer & Dillion, LLP on behalf of the Leading Builders of America.

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ABOUT NEWMAYER & DILLION LLP

For more than 30 years, Newmeyer & Dillion has delivered creative and outstanding legal solutions and trial results for a wide array of clients. With over 70 attorneys practicing in all aspects of business, employment, real estate, construction and insurance law, Newmeyer & Dillion delivers legal services tailored to meet each client’s needs. Headquartered in Newport Beach, California, with offices in Walnut Creek, California and Las Vegas, Nevada, Newmeyer & Dillion attorneys are recognized by The Best Lawyers in America®, and Super Lawyers as top tier and some of the best lawyers in California, and have been given Martindale-Hubbell Peer Review’s AV Preeminent® highest rating.

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