
THE ECONOMIC LOSS DOCTRINE DOES NOT APPLY TO A CASE AGAINST A DESIGN PROFESSIONAL

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Flagstaff Affordable Housing Limited Partnership v. Design Alliance Inc.
Ct. Appeals, Div. One, March 24, 2009

Authored by the [JSH Appellate Team](#)

Owner Plaintiff contracted with Defendant Architect for the design of apartments. The architect designed the apartments, provided the owner with the plans and specifications, and the apartments were built accordingly. Nine years later, HUD filed a complaint against the owner for housing discrimination. This forced the owner to remedy design deficiencies in the apartments. The owner sued the architect for professional negligence, seeking economic losses as compensatory damages. The trial court dismissed the suit on the ground that the economic loss doctrine barred the professional negligence claim.

The court of appeals reversed. The “economic loss doctrine” precludes an aggrieved party suing in contract from recovering economic damages in tort unless the party has suffered physical harm – either personal injury or property damage. The economic loss rule serves to distinguish between tort, or duty-based recovery, and contract, or promise-based recovery, and clarifies that economic losses cannot be recovered under a tort theory. Here, the Owner’s professional negligence claim was based in tort, not contract, and so the economic loss doctrine did not bar the action. The court rejected the architect’s argument that the economic loss doctrine should bar the action because the case was similar to a construction defect case. This case alleged negligent design, not negligent construction.