



124 A.D.3d 528, 998 N.Y.S.2d 625  
(Mem), 2015 N.Y. Slip Op. 00623

\*1 Allstate Indemnity Company, as Subrogee  
of Corey Wecler and Others, Appellant

v

Virfra Holdings, LLC, Respondent, et al., Defendant.

Supreme Court, Appellate Division,  
First Department, New York  
January 26, 2015

CITE TITLE AS: Allstate Indem.  
Co. v Virfra Holdings, LLC


#### HEADNOTE

Subrogation  
Waiver

Feldman & Feldman, LLP, Smithtown (Leonard B. Feldman  
of counsel), for appellant.

Cinotti LLP, New York (Scott Stone of counsel), for  
respondent.

Order, Supreme Court, New York County (Ellen M. Coin,  
J.), entered July 11, 2013, which, insofar as appealed from,  
granted the motion of defendant Virfra Holdings to dismiss  
the complaint as against it, unanimously affirmed, with costs.  
Appeal from order, same court and Justice, entered March  
13, 2014, which, inter alia, upon reargument, adhered to  
the original determination, unanimously dismissed, without  
costs, as academic.

The motion court correctly determined that the waiver of  
subrogation clause contained in the insurance policies and  
bylaws of the condominium association precluded this action.  
The nature of the loss that occurred herein was of the exact  
nature contemplated by the waiver of subrogation provision  
(see e.g.  *Kaf-Kaf, Inc. v Rodless Decorations*, 90 NY2d  
654, 660 [1997]).

We have considered plaintiff's remaining arguments and  
find them unavailing. Concur—Tom, J.P., Acosta, Saxe,  
Moskowitz and Feinman, JJ.

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