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CONSTRUCTION LAW | IN THE NEWS




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Construction Law Client Advisory:

## Whether Defect Claims Are Covered by a Contractor's Commercial General Liability Policy

By: [Kevin J. Breer](#)

Contractors maintain several types of insurance to protect their businesses and to account for the risks of working on a construction project. One type of policy is a Commercial General Liability Policy ("CGL Policy"). CGL Policies generally protect the contractor where their work has caused damage to something or someone. The typical CGL Policy states that the insurance applies only to "bodily injury" and "property damage," but only if the bodily injury or property damage are caused by an "occurrence" that takes place within the coverage territory.

[ [Read more](#) ]

### Kansas Update:

In 2006, the Kansas Supreme Court addressed, for the first time, the issue of whether a claimed construction defect constitutes an "occurrence" under a standard commercial general liability policy. The case involved certain claimed defects in the construction of a home. The Court reviewed the CGL Policy in an attempt to determine what the word "accident" means under the policy.

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### Missouri Update:

In 1998, the Missouri Court of Appeals considered a claim brought

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by an insurer to determine whether certain alleged defects resulting from trenching work were covered by the terms of the CGL policy with their insured, a contracting company. The Court held that the claimed defects did not constitute an "accident" and, therefore, there was no coverage under the terms of the CGL Policy. The Court emphasized that CGL Policies are not designed to act as a "performance bond" or a "guarantee of performance."

[ [Read more](#) ]

### Arizona Update:

In 1990, the Arizona Supreme Court considered a case where a contractor had failed to install all of the roofs required under the contract and some of those that were installed were not installed in a good, workmanlike manner. Demand was made that the defective workmanship be covered by the property damage coverage under the CGL Policy.

[ [Read more](#) ]

### Colorado Update:

In 1990, the Colorado Court of Appeals considered whether defective roof construction was a covered occurrence under the terms of the CGL Policy in analyzing not only the corrosion of the roof, but its subsequent collapse. The Court of Appeals held that the alleged defective construction was an "occurrence" under the terms of the policy.

[ [Read more](#) ]

### Illinois Update:

In 2008, the Illinois Court of Appeals considered a claim involving cracks in the foundation of a home. The homebuilder filed suit against its insurer, asserting that the insurer had a duty to defend and indemnify the builder from the claims asserted by the homeowner.

[ [Read more](#) ]

### Other Decisions:

Numerous other courts have followed the recent trend in finding that defects constitute an occurrence under a standard form CGL Policy.

[ [Read more](#) ]

### For More Information:

For more information, or if you have any questions, please contact the author, a member of our Construction Litigation group or:

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