

CALIFORNIA

Construction Defect as Occurrence

Legacy Partners, Inc. v. Clarendon American Ins. Co., 2008 WL 4482298 (S.D. Cal. Oct. 2, 2008). Damage caused by insured's placement of heavy construction equipment and materials on the claimant's property and the negligent removal of the claimant's storm and pollution work could constitute an occurrence depending on the facts of the case.

Anthem Elec., Inc. v. Pacific Employers Ins. Co., 302 F.3d 1049 (9th Cir. 2002). The unexpected and unintended failure of circuit boards due to defective work upon them was an occurrence.

Vandenberg v. Centennial Ins. Co., 982 P.2d 229 (Cal. 1999). The nature of the damage and the risk involved, i.e., whether there has been an occurrence of property damage, rather than the nature of the cause of action, i.e., whether in tort or contract, determines whether a claim falls within the insuring agreement of a CGL policy.

Hogan v. Midland Nat'l Ins. Co., 476 P.2d 825 (Cal. 1970). Damage resulting from a defective saw that cut timber too narrowly was an accident since the damages resulting from rejected undercut lumber were not foreseeable or expected.

Application of Property Damage Exclusions

McGranahan v. Insurance Corp. of New York, 544 F.Supp.2d 1052 (E.D. Cal. 2008). The Your Work Exclusion did not bar coverage where the allegations included damage to property other than the drywall installed by insured. The Faulty Workmanship Exclusion, Exclusion j(6) did not apply because the work was completed, and the fact that remediation was necessary did not render the work was incomplete.

Maryland Cas. Co. v. Reeder, 221 Cal. App.3d 961, 270 Cal. Rptr. 719 (Cal. App. 4th Dist. 1990). The subcontractor exception of the BFPDE applied to preserve coverage for an insured developer for property damage arising out of work of soils engineers, graders, and roofers. The Products Exclusion could not be applied to a construction project so as to eliminate the coverage afforded by the subcontractor exception.