

**COMMERCIAL GENERAL LIABILITY COVERAGE FOR DEFECTIVE WORK  
STATE-BY-STATE SURVEY  
MARCH 15, 2007**

STATE	IS DEFECTIVE WORK AN OCCURRENCE?		PROPERTY DAMAGE EXCLUSIONS APPLIED?
	Status	Case Law	Case Law
Colorado	Unclear	<i>Hoang v. Assurance Co. of Am.</i> , 149 P.3d 798 (Colo. 2007); <sup>i</sup> <i>Colard v. Am. Family Mut. Ins. Co.</i> , 709 P.2d 11 (Colo. App. 1985); <sup>ii</sup> <i>Union Ins. Co. v. Hottenstein</i> , 83 P.3d 1196 (Colo. App. 2003); <sup>iii</sup> <i>Adair Group v. St. Paul Fire &amp; Marine</i> , 477 F.3d 1186 (10th Cir. 2007). <sup>iv</sup>	<i>McGowan v. State Farm Fire and Cas. Co.</i> , 100 P.3d 521 (Colo. App. 2004). <sup>v</sup>

<sup>i</sup> **\*\*Colorado:** *Hoang v. Assurance Co. of Am.*, 149 P.3d 798 (Colo. 2007). There was an occurrence when soil problems resulted in damage to several homes since the damage could not be expected or intended from the standpoint of the insured homebuilder.

<sup>ii</sup> **Colorado:** *Colard v. Am. Family Mut. Ins. Co.*, 709 P.2d 11 (Colo. App. 1985). Poor workmanship by the insured contractor was an occurrence where the result of the insured contractor's actions was neither expected nor intended.

<sup>iii</sup> **Colorado:** *Union Ins. Co. v. Hottenstein*, 83 P.3d 1196 (Colo. App. 2003). Construction contractor's poor workmanship constituted a breach of contract for remodeling a house and was not an accident, and therefore not an occurrence.

<sup>iv</sup> **Colorado:** *Adair Group, Inc. v. St. Paul Fire & Marine*, 477 F.3d 1186 (10th Cir. 2007). The defective workmanship of the insured general contractor's subcontractors in breach of the general contract was not a covered occurrence under the CGL policy. The fact that the defective work was performed by the subcontractors, not by the insured general contractor, was unpersuasive, and the court stated that a CGL policy is not intended to provide an anticipatory guarantee of quality

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work in that a general contractor cannot turn its failure to complete construction according to the contract into a covered occurrence by “bootstrapping on its subcontractor’s negligence.”

<sup>v</sup> **Colorado:** *McGowan v. State Farm Fire and Cas. Co.*, 100 P.3d 521 (Colo. App. 2004). The property damage due to structural defects in a house fell within the unambiguous Faulty Workmanship Exclusion, Exclusion j(6), in a homebuilder’s CGL policy; the exception for property damage within the products-completed operations hazard contained in the Faulty Work Exclusion did not apply since the home had not yet been completed at the time of the occurrence.