

**COMMERCIAL GENERAL LIABILITY COVERAGE FOR DEFECTIVE WORK  
STATE-BY-STATE SURVEY  
FEBRUARY 2008**

STATE	IS DEFECTIVE WORK AN OCCURRENCE?		PROPERTY DAMAGE EXCLUSIONS APPLIED?
	Status	Case Law	Case Law
<b>Georgia</b>	Pending	<i>Custom Planning &amp; Dev. Inc. v. Am. Nat'l Fire Ins. Co.</i> , 606 S.E.2d 39 (Ga. App. 2004); <sup>i</sup> <i>Sawhorse, Inc. v. Southern Guar. Ins. Co. of Ga.</i> , 604 S.E.2d 541 (Ga. App. 2004); <sup>ii</sup> <i>Hathaway Dev. Co., Inc. v. Illinois Union Ins. Co.</i> , No. 07-00118 (N.D. Ga. Oct. 4, 2007), <i>appeal pending</i> , Case No. 07-15155 (11th Cir.). <sup>iv</sup>	<i>Sapp v. State Farm Fire &amp; Cas. Co.</i> , 486 S.E.2d 71 (Ga. Ct. App. 1997); <sup>iv</sup> <i>Bituminous Cas. Corp. v. Northern Ins. Co. of N. Y.</i> , 548 S.E.2d 495 (Ga. App. 2001); <sup>v</sup> <i>Stratton &amp; Co. v. Argonaut Ins. Co.</i> , 469 S.E.2d 545 (Ga. App. 1996); <sup>vi</sup> <i>Hathaway Dev. Co., Inc. v. Illinois Union Ins. Co.</i> , No. 07-00118 (N.D. Ga. Oct. 4, 2007), <i>appeal pending</i> , Case No. 07-15155 (11th Cir.). <sup>vii</sup>

<sup>i</sup> **Georgia:** *Custom Planning & Dev. Inc. v. Am. Nat'l Fire Ins. Co.*, 606 S.E.2d 39 (Ga. App. 2004). A defect in a retaining wall for a swimming pool was not an accident due to the fact that there was no negligence, but instead the defect was due to breach of implied warranty and breach of contract.

<sup>ii</sup> **Georgia:** *Sawhorse, Inc. v. Southern Guar. Ins. Co. of Ga.*, 604 S.E.2d 541 (Ga. App. 2004). The damage to an existing home arising out of a contractor's failure to install support beams constituted an occurrence in the absence of any evidence that the insured contractor intended the faulty workmanship to occur.

<sup>iii</sup> **Georgia:** *Hathaway Dev. Co., Inc. v. Illinois Union Ins. Co.*, No. 07-00118 (N.D. Ga. Oct. 4, 2007), *appeal pending*, Case No. 07-15155 (11th Cir.). The court held that because the subcontractor intended to perform work on an apartment complex, the damages arising out of that work did not constitute an accident under the insured general contractor's CGL policy and Georgia law.

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- <sup>iv</sup> **Georgia:** *Sapp v. State Farm Fire & Cas. Co.*, 486 S.E.2d 71 (Ga. Ct. App. 1997). Exclusion j(6), the Faulty Workmanship Exclusion, applied, and the insured subcontractor's defective installation of hardwood flooring throughout residence was excluded because the entire installation was a subcontractor's work, ignoring the "particular part" limitation.
- <sup>v</sup> **Georgia:** *Bituminous Cas. Corp. v. Northern Ins. Co. of N. Y.*, 548 S.E.2d 495 (Ga. App. 2001). Exclusion j(6), the Faulty Workmanship Exclusion, applied to deny coverage for contractor's work on faulty deck built onto a home and which allowed water to flood the house.
- <sup>vi</sup> **Georgia:** *Stratton & Co. v. Argonaut Ins. Co.*, 469 S.E.2d 545 (Ga. App. 1996). The subcontractor exception to the BFPDE Work Performed Exclusion applied to provide coverage for faulty workmanship performed by subcontractor.
- <sup>vii</sup> **Georgia:** *Hathaway Dev. Co., Inc. v. Illinois Union Ins. Co.*, No. 07-00118 (N.D. Ga. Oct. 4, 2007), *appeal pending*, Case No. 07-15155 (11th Cir.). Applying Exclusions j(5) and j(6), the Operations and Faulty Workmanship Exclusions, the court found that because those exclusions were designed to exclude coverage for defective workmanship which caused damage to the construction project itself, and since the insured general contractor had already admitted that the damage to its work on two apartment projects was caused by the faulty workmanship of its subcontractors, the exclusions barred coverage for any damage caused to the project, including costs of repair.