

NORTH DAKOTA

Construction Defect as Occurrence

ACUITY v. Burd & Smith Constr., Inc., 721 N.W.2d 33 (N.D. 2006). Water damage to the interior of an apartment building sustained during the replacement of a building's roof was a covered occurrence, since the water damaged property other than the insured general contractor's work.

Fisher v. American Family Mut. Ins. Co., 579 N.W.2d 599 (N.D. 1998). The faulty workmanship by a hardwood floor refinisher constituted an occurrence.

Application of Property Damage Exclusions

ACUITY v. Burd & Smith Constr., Inc., 721 N.W.2d 33 (N.D. 2006). The court applied Exclusions j(5) and j(6), the Faulty Workmanship and Operations Exclusions, to exclude coverage only for the roof as the particular part of the real property upon which the insured was performing operations and that was defective. At the same time, the court upheld coverage for the water damage to the interior of an apartment building while the roof was being repaired.

Scottsdale Ins. Co. v. Tri-State Ins. Co., 302 F. Supp. 2d 1100 (D.N.D. 2004). Once the prefabricated modular units of a home manufactured by the insured were assembled and affixed to the foundation, they became real property, and the exception for real property in Exclusion k, the Your Product Exclusion, applied.