



In a highly-anticipated decision from the *Ohio Supreme Court in Ohio N. Univ. v. Charles Constr. Servs., Inc.*, 2018-Ohio-4057, the state's highest court unanimously ruled on Oct. 9, 2018, that a general contractor's commercial general liability (CGL) insurance policy does not cover damages caused by defective work performed by a subcontractor.

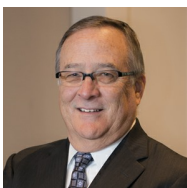
This decision contrasts with decisions from courts in other states, which have found faulty workmanship of subcontractors is covered under CGL policies. The decision also reinforces a 2012 Ohio Supreme Court decision in *Westfield Insurance v. Custom Agri Systems* where the court found that property damage caused by a contractor's own faulty workmanship is not covered.

The court declined to follow the majority of states that do hold that faulty workmanship (including the faulty work of a subcontractor) is a covered "occurrence" under the typical insurance policy by implying that defective work of a subcontractor is a business risk that general contractors can control and is therefore not "fortuitous" and therefore not "accidental" under the language of the policy at issue. The court went on to state that it was constrained by unambiguous language in the insurance policy and that perhaps interested parties could work to have legislation adopted to define whether defective work of a subcontractor is in fact an occurrence under a CGL policy.

This decision now exposes contractors throughout the state to potential liability for correcting defective work (and any resultant damage) that they previously believed would be covered by insurance they had purchased years ago.

The Ohio General Assembly could change the law to require that any GCL policy sold in the state must cover property damage caused by faulty workmanship. However, unless and until that happens, construction contractors need to understand the policies they thought would be available to cover them for defective work (and any resultant damage resulting from that defective work) will not do so. Those policies will only apply in the event of third party personal injuries, death or property damage (with property damage only being covered if it results from a construction "accident" – insurance will not pay to repair or replace defective construction and any resultant damage).

[Click here to read the court decision.](#) Contact one of our construction attorneys below if you have questions on this or other construction law issues.



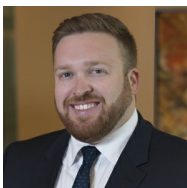
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OH Supreme Court holds that general contractors CGL does not cover defective work by subcontractors
