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## The Products Completed Operations Hazard: What It Is, and Why Everyone Involved in Construction or Real Estate Development Needs To Know About It

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A “products completed operations hazard” section is found in every commercial general liability insurance policy, yet few know its significance. What is the “products completed operations hazard,” and why is it important for anyone involved in construction or development to know about it?

Commercial general liability insurance policies generally provide broad coverage, but the exclusions tacked on may winnow down that broad coverage provided and, in essence, re-write the policy in a far more restrictive fashion. This is especially the case with respect to the “products completed operations hazard.”

### Consider the following hypothetical:

A construction project is about to begin. Whether it is the remodel of a residence or construction of the world’s largest skyscraper, in the context of insurance coverage, subject to certain exceptions, the particular type of project is a distinction without a difference. This is especially the case with respect to the application of the “products completed operations hazard.”

Prior to commencing this hypothetical construction project, everyone involved in the project obtained commercial general liability insurance. From the developer who came up with the construction project idea in the first place, to the smallest subcontractor performing tile work—each had to obtain commercial general liability insurance in order to be able to commence work on the project.

The general contractor even dutifully obtained a certificate of insurance from each subcontractor involved, prior to their commencing work on the project. Each of the certificates of insurance purported to state that the general contractor and the developer were added as additional insureds under the subcontractors’ insurance policies.

The attempt to compile insurance information for the parties involved in the construction project is an effort to ensure that the construction project can be completed in the most efficient manner possible, with any potential adverse costs associated with it transferred to insurance instead of the pockets of the developer, general contractor or subcontractors involved. The end goal of the project being, of course, to make a satisfactory

profit so that the construction project was a worthwhile endeavor.

The construction project goes from concept to completion and all seems well. No one was hurt on the job. No property was damaged in the process. All of the companies involved in the project were paid. It appears that it is now time to move on to the next project. This construction project is finally over. Or is it?

The beautifully completed construction project is put to its intended use. Sometime later, someone who is properly up on the roof steps onto a section that caves in. It turns out that the roof was constructed defectively. This defectively constructed roof causes the person to fall and become a quadriplegic. A lawsuit ensues; the roofer, the general contractor and the developer are all sued. Damages in such a case can be in the tens of millions of dollars.

The developer tenders a claim to its insurer, as well as to those of the general contractor and the roofer. The general contractor tenders a claim to its insurer and that of the roofer. The roofer tenders a claim to its insurer only. Why is it that all of these tenders of claim can be properly denied? It is because of the “products completed operations hazard.”

Most commercial general liability insurance policies contain either an exclusion or an endorsement to the effect that “this insurance does not apply to ‘bodily injury’ or ‘property damage’ included within the ‘products completed operations hazard.’”

This type of language specifically excludes any damage to person or property that happens *after* a project of construction is completed from coverage. Therefore, although a project of construction may have been completed without any problems, this does not mean that the potential liability with respect to that construction project ended upon the recordation of the notice of completion, or receipt of final payment for the work performed.

Commercial general liability insurance policies generally provide broad insurance coverage. The insuring grant normally provides coverage for “advertising injury,” “bodily injury,” “personal injury” and “property damage” to which that insurance policy applies.



However, the exclusions in an insurance policy winnow down the broad insurance coverage provided in the insuring grant and, in essence, re-write the policy in a far more restrictive fashion. This is especially the case with respect to the “products completed operations hazard.”

Therefore, when considering the next construction project, not only must one consider insurance coverage for the pitfalls that may ensue during the construction project itself, one must also consider the pitfalls that may ensue *after* the construction project is completed. A detailed review of your insurance policy by counsel, in conjunction with obtaining endorsement options from an insurance broker, could help to avoid costly liability in the future, including liabilities that would fall within the “products completed operations hazard.”

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