

LEGAL BRIEF



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Comprehensive General Liability Insurance – Vital, but Limited, Protection

As a responsible business owner or manager, you undoubtedly have several different types of insurance policies covering risks associated with your business. These include commercial auto policies and workers' compensation insurance.

You also surely have in place a comprehensive general liability (CGL) policy providing your firm with broad protection against claims of injury and damage. (If you don't have such a policy in place, stop reading this, put the magazine down, and run — don't walk — to the office of your insurance professional because tomorrow is the day the parking ramp your firm built collapses onto some lawyer's new Jaguar).

Generally speaking, a CGL policy provides your business with protection against claims of property damage or bodily injury made by third parties (i.e., persons other than your employees). The following is a summary of the coverages in the typical CGL policy and some issues which frequently arise when claims are presented.

Basic Coverages

The typical CGL policy provides coverages for several different types of claims. The Bodily Injury and Property Damage coverage most often comes into play — it protects you from liability for property damage or personal injury caused by your company's activities. For example, this coverage would provide you with protection against the property damage claims of the owner of the Jaguar described earlier. It would also provide your firm with coverage against personal injury claims made by the lawyer sitting in the Jaguar when the parking ramp collapsed.

When a claim is made against your business which falls within one of the types of coverages included in a CGL policy, the insurance carrier is required to do two things: (1) Provide your firm with a legal defense to your claim, which means payment of attorney's fees and the expenses necessary to properly defend the claim; and, (2) pay the costs of any judgment entered against your company as a result of a covered claim, up to your limits of coverage.

Exclusions from Coverage

CGL policies do not provide unlimited coverage. They are designed to protect you from financial losses due to *accidental* injury or damage caused by your business activities. CGL policies do not serve as a guarantee of your work or as a performance bond, and such policies will not protect you from your own failure to properly perform your contractual obligations. A number of coverage exclusions, known collectively as the "your work" or "your product" exclusions, effectively prevent coverage for claims arising from your failure to do what your customer asked you to do. These exclusions also limit coverage for damage to your firm's own product or work. Similarly, these exclusions preclude coverage for expenses related to replacing your work or product because of failure to meet specifications.

Where, however, a defect in your work or product causes damage to other property or persons, coverage does exist.

For instance, let's assume you are a general contractor who builds a house. The foundation fails and the homeowner sues you for the expense of repairing the house, alleging poor work on your part. There is no coverage from a CGL policy, because the claim arose simply from your failure to satisfy your contractual obligations. However, if the homeowner claims that water pouring through the cracks in the foundation has damaged his valuable baseball card collection, there would be coverage for that portion of his claim.

Or, you are a manufacturer of metal engine parts. A customer buys your parts and incorporates them into engines it manufactures. Your parts fail, and the customer sues you, claiming that your parts did not meet specification and demanding payment of expenses caused by having to buy adequate replacement parts from another manufacturer. There is no CGL coverage for this claim, but there would be coverage for a claim arising from damage to other parts of the engine caused by your defective parts.

There are a number of other coverage limitations in the typical CGL policy. For example, most pollution-related claims are not covered. However, the most important exclusions are the "your work" and "your product" exclusions, which prevent the CGL policy from being used as a performance bond or otherwise as a guarantee of your work.

Conclusion

The typical CGL policy provides broad coverage designed to protect you from accidental damage your business causes to other people or their property. Although there are significant coverage exceptions in the typical CGL policy, additional protection can be obtained by purchasing endorsements to your policy. The nature of your business activities will dictate the type of CGL package which is appropriate for you. As a prudent business owner or manager, you should take the time to determine whether your CGL coverages are sufficient to meet your needs. ■

For more information, contact Craig Murphey at 814/870-7655.