



Chris Griswold, P.C.

News From the Firm

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Message From Chris....

This month I want to quickly discuss the insurance-related “*ins and outs*” of the nationally televised construction defects of the nation’s largest and most expensive high school football stadium ever built (located in Allen, Texas) which recently came to light after significant cracks were discovered in the concrete of the project’s structure (**Note:** the stadium was controversial to begin with after costing taxpayers some \$50,000,000.00+ to construct). This should further one’s insurance knowledge... (and don’t forget to click on my Facebook or YouTube links below to also see my short video on this material).

Rise and Fall

What is the insurance side of this fact pattern? There will, in all likelihood, be 3 sorts of insurance claims which could possibly be made. ***What are they?***

- 1) ***Professional liability of the engineers and architects who completed/built/oversaw the project.*** Since these policies are typically “*claims made*” policies (which means the claim must be made while the policies are still paid up and effective), let’s hope these engineers/architects have kept their policies up lest they become personally liable with no insurance coverage to help them.
- 2) ***Commercial General Liability of the both the builders and the vendors who supplied materials for the project.*** After a certificate of occupancy is issued on a structure (in this case, the stadium has been in use now for 2 plus years - so the certificate of occupancy has long since been issued), the builders risk policy held by the builders (which is the property coverage policy which covers the unfinished structure) lapses and, simultaneously, the builders’ and vendors’ commercial general liability policies continue to protect these parties through what is known as “*completed operations coverage.*” In other words, there is no longer any commercial general liability coverage predicated upon the builders/vendors active operations in constructing the project, instead, the coverage continues in what the builders/vendors have left behind - the completed project. **Interesting to note:** the Commercial General Liability policies of builders, contractors and vendors, unlike the professional liability policies of the engineers and architects, is “*occurrence based.*” What does this mean? It means that these builders, contractors and vendors general liability policies continue to protect them long after the project is complete - so long as the occurrences giving rise to the claims now possibly being made against the builders, contractors and/or vendors occurred during the time which their respective commercial general liability policies were paid up and in effect (i.e., usually during the time before the certificate of occupancy was issued and the project was still actively being constructed). ***However, how long does this "extension of coverage" last?*** Each State has its own statute of limitations on the length of time during which the terms and provisions of a written contract (which includes written insurance contracts) remain

enforceable. In Texas, it's 4 years. In Oklahoma, it's 5 years. So, these builders, contractors and/or vendors remain on the hook for another 2 or so years from now (since the project was completed around 2 years ago now).

3) *Lastly, the builders, contractors and vendors may also have their own "professional errors and omissions" policies which might protect them and these may be called upon soon.* Again, these would be "claims made" policies. The claims which may possibly be made upon these policies would, like the foregoing, previously described liable insurance policies, be in the nature of latent, construction defect claims brought by the Allen Independent School District and/or the City of Allen, among other possible plaintiffs....

What My Clients Are Saying

“I can’t say enough good things about Chris Griswold and his firm. He jumped in and tactfully assisted me in navigating a hostile easement issue with the City. Based upon Chris, we were successful in negotiating a fair settlement in a very timely manner. I would highly recommend Chris Griswold to anyone and I plan on using him again in the future.”

David Ostrowe / Principal & Owner, O&M Restaurant Group / Oklahoma City, Oklahoma

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