

## Ohio Supreme Court Does Not Reconsider Prior Precedent

October 15, 2018 | [Commercial General Liability, Construction, Policyholder Protection](#)



**Clifford J. Shapiro**

Of Counsel  
(Retired)

The Ohio Supreme Court ruled on Oct. 9, 2018, that property damage caused by a subcontractor's faulty workmanship can never be an accidental "occurrence" within the meaning of the Commercial General Liability (CGL) insurance policy, and is therefore not covered. In reaching this conclusion in [Ohio Northern University v. Charles Construction Services Inc.](#), Ohio's highest court followed its own precedent instead of applying the reasoning used by the vast majority of courts that have reached the opposite conclusion in recent years.

Ohio Northern University (ONU) hired Charles Construction Services to oversee construction of an \$8 million University Inn and Conference Center. Charles Construction obtained a general liability policy from Cincinnati Insurance Company. After the project was completed, the University discovered extensive water infiltration and other damage to the building. The University sued Charles Construction for breach of contract, and Charles Services filed third-party claims against several subcontractors. Cincinnati initially agreed to defend Charles Construction in the litigation under a reservation of its rights, and then obtained a trial court ruling finding that it had no duty to defend.

The Appellate Court reversed, and the Ohio Supreme Court agreed to review the Appellate Court's decision at Cincinnati's request. The Ohio Supreme Court reversed, finding that Cincinnati owed no duty to defend or to indemnify Charles Construction. For my detailed analysis of this decision and its impact on the construction industry, [see my legal alert on the topic](#).

### RELATED PRACTICE AREAS

- Commercial General Liability
- Construction
- Copyright, Trademark, and Media Liability
- Credit and Mortgage Insurance
- Directors and Officers Liability
- Employment Practices Liability
- Fidelity Bonds and Commercial Crime Policies
- First-Party Property
- Insurance Recovery and Counseling
- Ocean Marine and Cargo Coverage
- Professional Liability
- Representations and Warranties
- Workers' Compensation and Employers' Liability