

[Want Coverage for Construction Related Damage? You Need an Occurrence](#)

**ST. NICHOLAS FIRE INSURANCE COMPANY—**  
 Cash Capital, \$150,000.—Office, corner 8th-av. and 14th-st., Knickerbocker Bank Building.—Policies issued on all descriptions of merchandise, stores, dwellings, furniture, ships in port, &c., on as favorable terms as other City Offices, with the advantage to Insurers of a share in the profits of the Company.

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In reading the title to this post, you are likely thinking "Duh, of course you do, if nothing "occurs" then there is nothing to cover!" (or something to that effect). While this seems an obvious conclusion, we're talking the world of law, construction and insurance coverage where nothing is easy and very little if anything is obvious.

Take the case of [Erie Insurance Exchange v. Salvi](#) in the Chesterfield, Virginia Circuit Court. In that case, a subcontractor performing work on the Salvi's home caused damage to other

parts of their home because of its poor workmanship in breach of its duties under the construction contract. The insurance company sought summary judgment because the damage caused by the breach of contract and poor workmanship was not the result of an "occurrence" under the policy.

Upon the application of the "eight corners rule" of insurance contract interpretation, the Court concluded that the poor workmanship that caused the damage was not an occurrence. Why? Because an occurrence is an accident or unforeseeable event. After reviewing two key cases (cited in the opinion so not laid out here), the VA court determined that poor workmanship in violation of the plans and specifications of the contract was not an accident and therefore not an occurrence. Furthermore, the Court reasoned, the insurance policy at issue excluded damage to that work being performed by a subcontractor and damage to other areas of the construction that were damaged by the work itself.

In short, the policy, and not [Webster's Dictionary](#) or good old common sense, determines what qualifies as an "occurrence." The help of an [experienced construction attorney](#) can help you determine whether your policy applies.

I commend the linked case to your reading for the gory details of the decision.

After reviewing the case, I'd love to hear your thoughts on the decision. Did the Court get it right?

Image via [Wikipedia](#).

*Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.*