

CLIENT ALERTS

Construction Contractors should respond promptly and thoroughly to a Reservation of Rights Letter

2.15.2021

Your business suffered a loss on a project resulting in damage to your work or the Owner's property, and you filed a claim with your Commercial General Liability insurance carrier expecting coverage and indemnification. However, if your insurer believes a policy may not provide coverage for a claim, the first response you are likely to receive from your insurer is a reservation of rights letter. The insurer will typically quote extensively exclusions provisions from your policy. If you receive such a letter from your insurance company, put aside any impulse to panic. These letters are typically issued as a precaution when coverage issues are not clear to the carrier, and may be resolved without an actual coverage dispute.

Often a reservation of rights letter is quite lengthy and raises numerous possible reasons why the insurer may eventually deny coverage. This doesn't mean the insurer intends to deny coverage. Insurers will often raise every conceivable defense to coverage in their reservation of rights letter because some courts (including Michigan courts) have held that if an insurer fails to raise a particular defense in the initial reservation of rights that defense may be forever waived.

We recommend you follow a few specific steps to manage a reservation of rights situation.

- If the reservation of rights letter actually denies coverage, make sure the letter states the specific grounds for a coverage denial. If the letter is vague or merely quotes sections of policy language, ask the insurer in writing to clarify how the insurer believes the quoted language may bar your claim.
- Persistently follow up with the insurer, outlining any substantial disagreements about the reasons stated for the reservation.

Related Services

Construction Specialty Team

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- Keep copies of all correspondence, including letters, emails, and notes taken during phone calls or meetings.
- Don't rely on your broker to respond to the reservation of rights letter. You or your attorney should do so.

You might consider hiring a public adjuster or a similarly skilled and experienced claim expert to assess the claim and assist in negotiations. If you cannot obtain a satisfactory resolution, consider hiring an experienced coverage attorney to represent your interests. A reservation of rights letter can work to the insured contractor's advantage because it reveals the insurer's position and establishes the circumstances under which the insurer can later refuse to indemnify.

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