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PROPERTY DAMAGE CLAIMS UNDER COMMERCIAL INSURANCE POLICIES

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This is a concise, comprehensive, and practical guide to handling liability and first party claims under commercial insurance policies focusing on property damage claims. It's an ideal resource for assisting lawyers, risk managers, claims adjusters, and others, in dealing with claims of a property nature, and providing a better understanding of property insurance claims in general.

What's New in this Update:

This release features valuable updates to the case law and commentary in Chapters 6, 7 and 9.

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Case Law Highlights

- **Chapter 6—Limits of Liability**—In *Van Daele v. Waring House et al*, 2025 ONSC 6687(Ont. S.C.J.), the plaintiff sued the defendant venue after she fell on an uneven pathway at the premises while she was attending a wedding as a photographer. The event hosts had obtained a commercial general liability policy for the wedding and added the venue as an additional insured. The policy provided that the venue was insured only with respect to the “activities and operations” of the event. The venue brought a claim against the insurer, seeking a defence and indemnity under the policy. For its part, the insurer took the position that the plaintiff’s claim could not be said to have arisen from the “activities and operations” of the event. The court agreed with the insurance company and dismissed the claim. In doing so, the court found that it was clear that the plaintiff’s claim alleged that the loss arose from pre-existing structural defects on the venue premises, and not from the operation of the event itself. The court found that insurer had no duty to defend the venue in the circumstances.
- **Chapter 7—Perils Insured and Excluded**—In *Amour v. Security National Insurance Company*, 2025 ABKB 726 (Alta. K.B.), the plaintiff sued his insurance company to cover damage to his vehicle following an accident. The plaintiff had been driving with his two friends when he decided he needed to sleep. He allowed one of his friends to drive while he was asleep but not the other one. While he was sleeping, the friend who was not permitted to drive began driving the car and crashed it after himself falling asleep at the wheel. That friend had been living with the plaintiff at the time as part of his household and had no licence to drive. The insurance company denied coverage in part based on an exclusion clause in the policy that effectively stated there was “no indemnity for occupants of a vehicle driven without the owner’s consent”. The court found that although the plaintiff was in the car at the time, he was not an “occupant” as he was asleep and had no intention to occupy the vehicle while the unauthorized friend was driving and could make no conscious decision in that regard. Accordingly, the court found that the exclusion did not apply, and the property damage was covered under the policy.