

South Carolina Supreme Court Introduces “Continuum” Approach for “Occurrence”

Insurance Coverage Alert

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Last week, in [Auto-Owners Ins. Co. v. Rhodes](#), the South Carolina Supreme Court ruled that an “occurrence” can include subsequent events, so long as they were in some fashion caused by the initial accident. In that case, the insured constructed three billboards. One billboard fell onto the adjoining interstate and also damaged the owner’s land. As a result, the transportation department ordered the landowner to remove the remaining billboards, which were not damaged in any way. At issue was whether the removal of the two undamaged billboards was also an “occurrence” and otherwise covered, including the resulting economic damages.

Using an expansive “but for” test, the Court held that the transportation department would not have required that the billboards be removed without the initial occurrence. Specifically, the Court held that “we view the fallen sign and the removal of the remaining two signs under a continuum of an ‘occurrence,’ as this is analogous to the CGL cases involving ‘continuous or repeated exposure to substantially the same general harmful conditions.’” The Court also treated all three events as one occurrence, reasoning that they were simultaneously constructed. Despite its analysis, the Court refused to comment on whether there was “property damage” for the two undamaged signs.