We are often asked to review the insurance terms in contracts, leases and such. It's quite common for these documents to specify that parties carry certain types of insurance, and liability insurance is almost always mentioned. The attorneys who draft these contracts may be good lawyers, but they are frequently guilty of serious goofs in the wording they use in defining insurance requirements.

One common mistake is to include a requirement for insurance covering "Personal Injury", when in fact what they really want is insurance covering "Bodily Injury". To a layman they might sound the same, but they have very different and distinct meanings in a liability insurance policy.

The standard commercial general liability (CGL) policy that almost every business has covers claims for bodily injury. Bodily injury means tangible physical injury (blood, bruises, broken bones) or death. Some policies may extend to cover mental or emotional injury, but normally such coverage attaches only when such injury is claimed as a consequence of a bodily injury claim (so called physical-mental claims). Claims solely for non-tangible psychiatric injuries that arise from purely psychiatric causes, such as stress, anxiety, and fear only (known as mental-mental claims) won't be covered as bodily injury.

Now let's assume CGL policy is a standard Insurance Services Office (ISO) form. This policy has a separate section that provides, in addition to bodily injury coverage, coverage for "personal injury" claims. This section defines "personal and advertising injury" to mean injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

f. The use of another's advertising idea in your "advertisement"; or

g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

As you can see, none of these covered personal injury offenses arise from tangible injury. That's the key distinction between bodily injury and personal injury...tangible versus non-tangible injury.

Personal injury coverage in the GL policy is valuable extra protection most policyholders don't know much about. Of course, there are some pertinent exclusions to consider as well. There is generally no personal injury coverage for intentional acts that could knowingly lead to a claim. There is also no coverage for claims "arising out of oral or written publication of material, if done by or at the direction of an insured with knowledge of its falsity." So if the insured knew that her comments were false and this knowledge of falsity could be substantiated, the insurer would likely have a good reason to deny coverage. Bloggers beware; judges often enforce these personal injury exclusions.

Going back to the original point, though, personal injury and bodily injury are clearly not the same thing. When reviewing or negotiating leases or contracts, beware of requirements for insurance for "personal injury" when it's clear that what is really wanted is bodily injury coverage.