



## Claims @ Liberty

### Real Stories: Architects & Engineers E&O Insurance



As a design or construction professional, you deliver the expertise needed to get the job done. Should an alleged error or omission occur, you could become embroiled in serious disputes and/or litigation that can be extremely costly in terms of time, money and loss of reputation.

With Architects & Engineers E&O insurance from Liberty Mutual Canada (Liberty), you can rest assured that you'll be supported when you need it most.

Following are a few examples of how Liberty's professional liability coverage and expert claims handling stepped in to help Canadian companies in need.



#### The Collapsed Wall | \$25,000 paid

While delivering engineering and construction management work for a three-storey single family home, a wall at the side of the property collapsed and injured a construction worker. Construction was immediately suspended as the local health and safety authority investigated the incident. The report concluded that deficiencies in the contractor's work led to the collapse of a portion of the temporary retaining wall. Soon afterwards, a disciplinary proceeding against the insured firm took place.

**Liberty reimbursed the insured contractor \$25,000 for lawyer's fees incurred in response to the disciplinary proceeding.**



### The Roof Overhangs | \$175,000 paid

The owners of a newly-built residential complex noticed roof overhangs bending downwards and undertook a structural restoration. Alleging that the original construction and design were faulty, the owners sued three engineering firms, the local municipality and the architectural firm, our insured. The potential exposure for our insured architectural firm was up to 40% of \$720,000 in damages.

The parties to the lawsuit eventually attempted to mediate the dispute. However, when one of the co-defendant engineering firms abruptly left the mediation, the likelihood of reaching a settlement seemed unlikely.

**As a result of skilled claims handling, Liberty managed to keep the remaining parties together and a settlement was achieved. Liberty paid \$175,000 on behalf of the insured.**



### The Slip and Fall | \$40,000 paid

While attending an exercise class in a public gym, the plaintiff lost her footing, fell down a set of concrete stairs and sustained multiple injuries. Seeking \$2 million in general damages, the plaintiff issued a civil action against the municipality, the architects who prepared the drawings as well as our insured, a consultant who provided building code and fire protection consulting engineering services for the premises.

Liberty quickly retained defence counsel for the insured and, together, encouraged early settlement discussions before the litigation became costly. The matter settled before even reaching formal mediation.

**Liberty contributed \$40,000 on the insured's behalf, obtaining a full and final release from the other parties with no admission of the insured's liability.**



### The Burst Pipe | \$100,000 paid

An insured engineering firm provided mechanical and electrical engineering plans and oversaw some construction work for a new condo hotel project. After a burst sprinkler pipe caused almost \$700,000 in water damage, the condo corporation and its insurers initiated a claim against the general contractor, subcontractors as well as the mechanical and engineering firm insured by Liberty.

Liberty experts concluded that applicable standards were met regarding the pipe's location and installation and, as such, determined to defend the claim through trial. After eight years of litigation, the judge dismissed the case and concluded the whole action was ill-founded.

**Liberty paid 100% (approximately \$100,000) of the insured's legal fees and expert costs.**



### The Sinking Building | \$240,000 paid

This was an action where the plaintiff alleged that a sinking condo building caused extensive interior and exterior damage of their neighbouring property. In addition to our insured, the engineering firm involved in the structural design of the foundations, the general contractor and excavator firms were also named in the action.

Seeking \$675,000 in damages from all co-defendants, the plaintiff alleged that the engineering firm failed to consider that the work may damage the neighbouring property. Experts on both sides entered a complex, technical debate. Liberty's experts determined that a court could hold our insured solely liable for damages.

**This matter was successfully settled by mediation for \$485,000. Together with another insurer, Liberty contributed approximately 50% of the settlement.**



### The Repaired Concrete Slab | \$190,000 paid

Following the rupture of a water main beneath a concrete floor slab in an industrial condominium unit, our insured was hired to assess the damage, and prepared drawings and specifications for the repair of the slab. When three unit owners complained about the quality of the repairs, the plaintiff condominium corporation launched an action against its property insurer. The insurer then brought a third party claim against our insured and other parties.

Expert reports suggested that our insured's failure to specify a type of concrete and a moisture barrier caused or contributed to the alleged deficiencies.

**This matter was settled at mediation for \$330,000 with a contribution of \$90,000 paid by Liberty on behalf of the insured. Liberty also paid approximately \$100,000 for the insured's defence and expert costs.**



### The Freezing Data Centre | \$32,000 paid

The insured firm installed an HVAC system in a new post-secondary campus building. When the school's data centre was damaged after being exposed to freezing temperatures, the institution asserted that the insured may have some liability for the loss.

There were initial discussions between the insured and the institution to try to seek a resolution without resorting to litigation that were unsuccessful. The institution subsequently issued an action and asserted multiple allegations against the insured and other defendants. These included failure to design, build and commission premises fit for the intended use; failure to address defects; disclose risks; failure to ensure proper alternative measures as well as general negligence in the instruction and supervision of construction.

**Liberty supported early settlement discussions. The matter was eventually settled for \$160,000 with a \$20,000 contribution from the insured. In addition, Liberty paid 100% of the insured's defence costs.**



## The Collapsing Hardstand | \$200,000 paid

An insured consulting engineer designed internal roads and a hardstand area for a client to load and unload cargo onto trains. During use, the underpinnings to the hardstand began to collapse. The plaintiff alleged that the insured's design was defective.

An investigation revealed that the materials for the structure were changed during design from concrete to compacted gravel. Furthermore, the equipment used for loading and unloading on the hardstand was heavier than advised to the design engineer. Rectification costs of \$750,000 were estimated. However, given contributory negligence allegations, the claim was settled with the client.

**Liberty paid \$200,000 on behalf of the insured.**

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## Expect the Best

At Liberty, we put customer service above all else. When a claim is made, we respond with speed, professionalism and compassion. We look for ways to settle claims fairly and promptly. When a claim is to be paid, we pay quickly. Where we have supporting evidence to defend a claim, we are not afraid to do so. Most importantly, when our customers need to make a claim, it is comforting for them to know that they are dealing with claims staff with local knowledge and the market-leading authority to make decisions and to act on them.

## The Liberty Claims Ethos

- We believe that insurers exist to pay valid claims.
- We are consistent, empowered to make swift and informed decisions, and provide an accurate response to claims.
- We work side-by-side with our underwriters and risk engineers to understand the cover and the client.
- We build long-term relationships with our clients and brokers.
- We listen to their individual needs and support them when they need us most.
- We prioritize customer service.
- We are visible and approachable.



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