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> Construction professionals of all types can face disputes and litigation that cost time, money and reputation

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Claim examples for construction consultants

Cost pressures, tight timeframes and project complexity – project consultants must cope with all of these while controlling risk and exposure to third-party litigation. The following real life cases show how construction professionals of all types can become embroiled in serious disputes and litigation, which can be extremely costly in terms of time, money and loss of reputation.

Consulting engineers, building surveyors, environmental consultants, architects, project managers and other construction consultants need the certainty of a robust and comprehensive Professional Indemnity (PI) insurance policy.

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Industrial design engineering consultant

An engineering consultant designed a structure to house industrial equipment. Design specifications included reference to the dynamic forces that would be exerted on the structure during transportation to site. During transportation, part of the structure collapsed and the equipment was damaged. Although the consultant's design called for all connections to be both bolted and welded, subsequent investigations revealed that only the structure's braced connections had been bolted. Experts gave evidence that the omission of some bolts greatly reduced the structural integrity of the connections and contributed to the collapse. Notations on the consultant's drawings were found to be ambiguous, which led to the fabricator not inserting all intended bolts.

The claimant sued a number of parties, including the consultant, seeking salvage and reconstruction costs in excess of US$20 million. The claim was settled for US$8.5 million, to which the consultant made a multi-million dollar contribution.

Infrastructure consulting engineer

A consulting engineer was engaged to design internal roads and a hardstand area for a client to load and unload train cargo. During use, the underpinnings to the hardstand area began to collapse and further subsidence ensued. It was alleged that the consulting engineer's design was defective in that it failed to adequately address the types of vehicles that would be using the hardstand area and how they would access the area to load and unload cargo; however, it was argued that the equipment used for loading and unloading was heavier than previously advised to the design engineer. In addition, the materials for the structure had been changed during design from concrete to compacted gravel as a cost-saving measure.

Rectification costs were quantified at US$750,000 but, given the allegations of contributory negligence, the claim was settled with the client for US$400,000.



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Building surveyor

A building surveyor was engaged to issue a building permit and the required certificates, including the final Certificate of Occupancy, for a residential construction. Some years after completion of the house, the owners noticed significant movement and cracking. The owners sued the contracted builder, who in turn joined the builder to whom it had sub-contracted the works. The sub-contracted builder then joined engineers, the manufacturer of the footing system, the installer of the footings and the building surveyor.

The allegation against the building surveyor was that he had been negligent in issuing the permit and certificates because he should have recognised the deficiencies in the various engineering plans, designs and computations. The building surveyor asserted that it was not his duty to check such documentation; rather, his duty was to certify that the steps required under the relevant building legislation had been carried out by the appropriate registered building professionals. The other parties alleged that the building surveyor was liable because the deficiencies were obvious on the design documents and certificates.

After four years of litigation (and significant legal costs) the claim settled for over US$1 million, with the building surveyor contributing a proportion of that sum. Unfortunately, it is common for building surveyors to be dragged into such disputes.

Environmental engineering consultants

The landlord of a property catering to a mix of commercial and recreational activities engaged a firm of environmental consultants to undertake a building survey. The survey detected contamination in the building at a level the consultants regarded as likely to be dangerous. The consultants advised the landlord that the building should be evacuated and, pending further assessment and decontamination (if necessary), nobody should be allowed into the building without taking appropriate precautions. The landlord terminated all the leases.

One tenant sued the landlord for business interruption amounting to US$3 million. The landlord joined the environmental consultants as a defendant because the landlord asserted that any liability incurred arose purely from acting on the consultants' advice.

Expert accounting evidence indicated that any loss the claimants may have suffered was minimal. The matter failed to settle at mediation as the parties' settlement offers were irreconcilable. The consultants succeeded at trial, although not before incurring legal costs in excess of US$385,000, with little prospect of recovering such costs from the claimant.

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