

# Claims Examples

## Construction

### Contractors' Commercial General Liability (CGL)

---

#### 1. General Contractor – Water Damage From Improper Grading

The insured contractor was retained by a developer to prepare the grading, water and sewer utilities and roadwork infrastructure for a large suburban residential development site. The contractor's grading activities pushed earth into large piles on a natural slope close to the property line bordering a horse stable and training facility. A heavy and prolonged rainfall over three days saturated the earth and it slid down the slope and onto the grounds of the stable. The stable owner found construction debris in the sand and demanded the soil bed be replaced. Similarly, some of the grazing areas sustained damages and the stable owner had to buy feed for the horses. The stable owner sought \$115,000 in damages. ENCON retained an expert to assess the damages claimed and was able to negotiate a settlement of \$52,000. Defence costs totalled \$13,000.

#### 2. General Contractor – Damage to Vehicle

The insured contractor was retained by a large city to repair and improve a long section of roadway. A motorist travelling along the roadway lost control and rolled her car as a result of her attempt to allegedly swerve to avoid a construction pylon in her lane of travel. The motorist claimed for neck and back injuries in addition to the damages to the vehicle. The motorist commenced litigation claiming \$50,000 in total damages plus costs. At a pre-trial conference, the judge opined that the insured contractor may be found liable for failure to maintain surveillance for the pylons while the site was not active and the absence of warning signs. The matter was settled at \$30,000, and \$15,000 was paid in defence costs and legal costs. The claim took over five years to resolve.

#### 3. General Contractor – Flood Damages to Portions of Mall

During the early stages of the project, a large area of below-grade excavation occurred in preparation for the extension of the lower level of the mall. A substantial wind-driven rainstorm flooded the excavation site and water flowed into the lower level of the existing portions of the mall. The insured contractor failed to properly secure the excavation site in anticipation of any sort of storm water build-up; there was nothing put into place which would extract excessive amounts of water out of the excavation site. The leak within the lower level of the mall eventually caused damages to the walls, mouldings, carpeting and some of the inventory stock of the tenants. The total claim for the cleanup and repair costs was settled for \$75,000. Approximately \$5,000 was incurred in defence costs.

#### **4. General Contractor – Improperly Installed Railing**

The insured was the general contractor for a renovation project for a private residence. The homeowner asked the insured to install a temporary railing on an exterior staircase leading from the ground to the second floor balcony as the permanent railing had to be removed to permit the renovation. A self-employed contractor, hired directly by the homeowner to do other work not related to the renovation, fell through the temporary railing on a windy day, and died as a result of his fall. An inquest confirmed that the railing was not in accordance with the provincial safety requirements. The insured installed and approved the railing's suitability for use prior to the accident. The widow of the deceased brought forward a suit for loss of companionship, the loss of future income and handyman services, and the estate of the deceased claimed for his pain and suffering, and injuries that resulted in his death. The claim was settled prior to trial based upon a total damage claim assessed at \$235,000. The insured general contractor contributed on the basis of failure to install the handrail according to the building code. The claim cost approximately \$30,000 in defence costs and legal costs.

#### **5. Blasting Contractor – Improperly Placed Blasting Mat**

The insured blasting contractor was performing blasting operations when an overcharge blast caused the blasting mat to strike a hydro pole, causing a four-hour power outage. Claims were brought against the insured by 13 different claimants. Among the claimants were the utility company, the city and various storeowners. There were several claimants seeking indemnity for property damage as a result of the blast; however, the damages were present prior to the blasting. When an incident such as this occurs, claimants may decide to check their property and unknowingly claim for damages that were already present. Due to the number of claimants involved, it took roughly one year to negotiate a total settlement of \$11,500. Approximately \$3,000 was spent on defence costs.

#### **6. Piling Contractor – Damages to Underground Utilities**

During pile driving activities for a new office tower, a subcontractor, operating under the supervision of the insured general contractor, struck a duct bank containing fibre-optic cables for a telephone utility company. The utility company sustained damage to their concrete duct as well as a 12-hour suspension of telephone services for a portion of the city's downtown core. While the insured general contractor did not actually hit the fibre-optic cables, he was the general contractor and, as such, was held vicariously liable for the damage caused by the piling contractor and responsible for a portion of the total claim. However, as the utility company provided inaccurate "as-built" drawings, and reviewed and approved the work, it was considered as having contributed to its own loss. This reduced the claim value from the original \$250,000 in total damages to a final settlement of \$50,000. Approximately \$20,000 was spent on defence costs.

#### **7. General Contractor – Freshly Applied Tar Injures Pedestrian**

The insured general contractor for road work had just placed hot tar over the asphalt at an intersection when a pedestrian tripped and suffered burns on his hands and damage to his clothing. The insured contractor had not posted appropriate signage warning the public of the condition of the road. The claim was settled at \$20,000. Approximately \$2,000 was spent on defence costs.

## **8. Welding Contractor – Welding Spark Causes Damage**

The insured welding contractor was retained for a project involving welding to portions of a roof of a shopping mall. A spark from a welding torch caused a fire in a women's clothing store, but the fire was eventually extinguished. The store and its stock sustained significant damage and its business was interrupted during the time of repair. Some of the other areas of the mall also sustained residual smoke and water damage as a result of the fire. An investigation established that the actual cause of the fire was the escaped welding spark. The mall owner and the tenants initiated a claim against the insured welding contractor for the amount of \$800,000. ENCON negotiated a settlement for the property damage claim for \$425,000. Approximately \$30,000 was spent on defence costs and legal costs.

## **9. Demolition Contractor – Hoarding Collapse Injures Pedestrian**

The insured demolition contractor was retained by a building owner to work on a multi-unit residential project. A pedestrian walking by the construction site suffered injuries to his leg when hoarding collapsed due to high winds. The original bodily injury claim being sought by the pedestrian was for \$45,000. A settlement was achieved for \$25,000 and approximately \$6,000 was spent on defence costs.

*These Claims Examples are for illustrative purposes only. Please remember that only the insurance policy can give actual terms, coverage, amounts, conditions, and exclusions.*