



2015 INSURANCE COVERAGE SYMPOSIUM

CPD: 6.5 hours substantive

Chairs: Heather Sanderson - Sanderson Law, Calgary & Wendy Johnston QC - McInnes Cooper, Halifax

What You Will Learn:

- The elements of a construction comprehensive risk management programme including sureties, labour and material payment bonds, COC/builders' risk coverage and property insurance
- Whether the project property insurer can ever subrogate against project participants when a builders' risk policy is in place
- The role of the GL and Wrap-Up carriers
- Protection offered to construction project professionals under E&O coverage
- What is a typical data breach scenario and why does it matter?
- How 'Coverage A' and 'Coverage B' of today's CGL policies apply to data breach
- Coverage under typical D&O and E&O policies for data breach
- Tips for in-house and external counsel to maintain solicitor work product privilege over their files when defending claims and conducting claims investigations
- When is an act 'intentional'? When is negligence derivative of intentional conduct?

PROGRAMME

The Construction Fact Scenario

McInnes Cooper will present a fact scenario loosely based upon a construction dispute they handled concerning a large commercial East Coast tear down and re-build project gone wrong.

David Graves, Q.C. - McInnes Cooper, Halifax

Comprehensive Construction Risk Management Programmes Explained

Hear an overview of the elements of a comprehensive risk management programme including sureties, labour and material payment bonds, COC/builders' risk coverage and property insurance followed by a discussion of the application of the builder's risk and property policies to the fact scenario.

David Graves, Q.C. - McInnes Cooper, Halifax

John M. Moshonas - Whitelaw Twining, Vancouver

Third Party Construction Coverage

Construction is a risky business, and contractors often turn to their liability insurer when those construction risks have resulted in damage to the project. This talk addresses the coverage provided by CGL and Wrap Up policies to claims arising from loss or damage in a construction project arising from the contractor's work.

Aidan Meade - McInnes Cooper, Halifax

Maurice Audet - Aon Risk Solutions, Toronto

Professional Liability (E&O) Coverage for the Construction Project

A review of key issues and current trends affecting coverage under Professional Liability policies, including who is an insured, obligations under the insuring agreement, what are "professional services", duties of the Insured, typical exclusions, policy and eroding limits, and issues for defence counsel.

David Miachika, P.Eng - Borden Ladner Gervais, Vancouver

Use of Counsel in Claims Investigation – Potential Pitfalls

Solicitor-Client and Work Product Privileges form the key protections of the lawyer-client relationship. However, does the privilege remain when counsel step outside their litigation and advisory roles and undertake traditional claims functions? Recent decisions in both Canada and the United States have demonstrated that privilege doesn't always shroud counsel retainers.

Julia A. Molander - Meckler Bulger Tilson Marick & Pearson LLP., San Francisco, CA

Mr. Justice Paul Walker - The British Columbia Supreme Court

Data Breach & Privacy Violations – Liability under Canadian Law Arising From the Use and Misuse of Data & Technology

The loss of personal and financial information resulting from the breaches of cyber-security at Target and Home Depot, and the invasion of privacy suffered by individuals who provide Canadian business with key pieces of their identity are becoming an unfortunate fact of life. Is there recourse? Canadian law has been slow to catch up with rapid technological change, but progress is being made. Hear a privacy and data management lawyer discuss the present state of personal information and privacy law, as well as recent changes to provincial and federal legislation, the liabilities that they create, and the emerging common law in respect of privacy rights in Canada

Adam Kardash - Osler, Hoskin & Harcourt LLP, Toronto

The CGL Policy & Data Breach – What's Covered and What's Not?

The traditional GL policy is a square peg being forced into the round hold of cyber liability for which it was never designed. Hear a discussion of the GL terms "property damage", "right of privacy" and "publication" in the context of cyber liability and other challenges that emerge under traditional forms; the IBC 2011 amendments and various exclusionary endorsements.

Heather A. Sanderson - Sanderson Law, Calgary

Wendy J. Johnson, Q.C. - McInnes Cooper, Halifax

D&O and E&O Coverage Respond to Cyber Liability

What potential liabilities are faced by directors, and officers and IT professionals in the electronic age? What protection for cyber liability is offered to such companies by Directors and Officers Coverage? What protection is offered by Technology Errors and Omissions coverage? What are the limits of coverage provided by such policies? Hear experienced coverage counsel and a professional liability underwriter who regularly deals with the technology industry discuss these coverages in light of the cyber risk.

David R. Mackenzie - Blaney McMurtry LLP, Toronto

Scott Pidduck - QBE Canada, Toronto

Liability Insurance Coverage for Intentional Acts

Actions alleging damage and injury caused by a myriad of forms of intentional conduct are on the rise. Do traditional forms of liability coverage cover intentional conduct? What is the meaning of an intentional acts exclusion? When is negligence derivative of intentional conduct to apply exclusion? To what extent do those who allegedly failed to supervise the intentional conduct find coverage under common liability policies?

Dan D. Kohane - Hurwitz & Fine, P.C., Buffalo, New York

Brian C. Elkin - Lavery de Billy, Ottawa