

LOSS PREVENTION EDUCATION

Architects at any stage of practice contemplate how to better manage both practice and project risk. Our loss prevention education offerings arm architects with practical, useful and insightful ways to think about risk, alongside proactive methods to mitigate risks. Limiting or minimizing exposures that might lead to potential claims are emphasized in all our loss prevention education, so that architects become more aware of the risks associated with practice.

RISK TOPIC

[Claims Experience Workbook and Fillable Checklists and Worksheets](#)

The [Claims Experience Workbook](#), together with the accompanying [Fillable Checklists and Worksheets](#), help architects recognize and manage everyday risks, in their own interest and in the interest of the public.

Pro-Demnity has undertaken a comprehensive review of claims that arose over a multi-year period. The results of this review of claims arising between 2006 and 2011 are highlighted throughout the Workbook, and includes information about what has triggered claims most often, which building types were involved, and who else in the design team was named is presented here.

[What's Covered in your Professional Liability Insurance policy \(and what is not\)](#)

From the May 2021 virtual OAA Conference, this [on-demand video presentation](#) offers insights on how Professional Liability Insurance works, including the valuable coverages, as well as the exclusions. Learn what to do in the event of an alleged error or omission in your architecture practice. Eligible for Unstructured Learning CE credits.

[Insurance 101...Everything you wanted to know about insurance but were afraid to ask](#)

A program that introduces the concepts and origins of insurance to architects, augmented by a discussion of professional liability insurance, how it works, the roles and responsibilities of insurer and insured, and some of the standard features of any professional liability policy. The program includes discussion of some of the features of the Pro-Demnity program that set it apart from other products available in the market.

[Understanding Construction Insurance...Which Policies for Which Risk?](#)

Construction projects are inherently risky ventures, as accidents or other unexpected events at a worksite can result in significant losses or liabilities to an owner or contractor.

While it is well-known that insurance is available to parties on construction projects, it is less clear what specific risks are covered by each of the various types of available policies, and, more importantly, what specific risks are *not* covered by such policies. Construction insurance is not “one size fits all”. Being able to distinguish the coverage provided by the different types of construction-related policies will provide an architect with important information respecting types of insurance that it may encounter on projects.

This program will review four key types of construction-related insurance:

- Commercial General Liability Insurance (CGL)
- Property Insurance,
- Builders’ Risk Insurance,
- Wrap-Up Insurance

[Understanding your professional liability insurance policy](#)

Few architects have a working understanding of the content of the professional liability policy they are required to purchase. This program will take the attendees on a “clause-by-clause” read and review of a Pro-Demnity professional Liability insurance policy – essentially a group reading of the policy with Q&A. The objective is a better-informed architectural profession: better equipped to manage their own risks in practice and discuss insurance related concerns with colleagues, employees, and clients.

[New Practice Program...What is Professional Liability Insurance & Why do I need it?](#)

This program is intended for “Newer” practices – architects about to commence practice under a new Certificate of Practice or have been in practice for less than 5 years.

Few architects taking out a new Certificate of Practice and purchasing professional liability insurance from Pro-Demnity for the first time will have more than very cursory understanding of what professional liability is, why Ontario architects are required purchase this insurance, and, perhaps most importantly, the value and protection to the architect provided by the insurance. Topics will include:

- What is Professional Liability Insurance?
- Why is Professional Liability Insurance Required?
- Insurance terms explained
 - “Limits vs “Coverage”
 - “Claims-made” vs “Occurrence” based insurance
 - Claim Limit, Aggregate Limit, Project Maximum, Deductible
- What is COVERED and NOT COVERED by your PLI policy
- Review of the EXCLUSIONS from coverage under your PLI policy
- Recognizing a CLAIM – and what to do when you have a CLAIM
- Tips for reducing your risk of attracting a Claim

Lessons From Claims...Recognizing and avoiding lessons learned by others

In 2018, Pro-Demnity Pro-Demnity published a *Claims Experience Workbook...Lessons from a review of professional liability insurance claims*. The workbook provides architects with key information obtained from a major research project that reviewed Claims arising over a five year period. This program provides architects with a comprehensive review into the outcome of the research including:

- What issues have triggered Claims against architects most often?
- Which building types were involved most often?
- Categories of claims – what went wrong most often?
- Which services provided by architects generated the most Claims?
- Impact of other consultants and specialists on the claims

The program provides an overview of the findings reviewed in the *Claims Experience Workbook* organized to reflect the four principal themes that emerged from the research project.

Workbook Workshop...Using the Claims Experience Workbook

Workbook Workshop is an interactive review and discussion on the use of several risk management tools included in the *Claims Experience Workbook...Lessons from a review of professional liability insurance claims*. These include [Checklists and Worksheets](#) related to:

- Water-Related Claims

- Building Type
- Construction-Phase Consulting Services, and
- Risk-Management Worksheet

The program is intended for relatively small groups of attendees to encourage and facilitate active participation and discussion.

Architects considering this program would be well served to participate in “Lessons from Claims” as a prerequisite.

What to Expect When a Claim Arises...Be prepared, so you don't lose sleep

Unlike other types of insurance that we purchase, it is often difficult to recognize and understand the value provided by a professional liability policy. We don't see a car repaired and repainted to “as new” condition, nor do we see a crew of workmen restoring our flood-damaged basement or receive a cheque from the insurer to compensate us for the loss of a valued object that was stolen in a break in.

Instead, we receive an intangible...a defence provided by the insurer that can seem to be going nowhere for long stretches of time, and possibly, the payment of damages on our behalf to compensate another person or business for a loss we have difficulty accepting we shared responsible for.

The primary objective of this program is to reassure architects that the value they receive for their premium is real...and important to their own ability to survive when an error (real or alleged) in their services causes damages to others.

This program will help architects understand what to expect when a claim arises - addressing some of the mystery about the legal process and explaining the various phases and milestones in the often protracted (and expensive) process that Pro-Demnity undertakes on the architect's behalf.

An important objective is to provide the knowledge to assist the insured architect understand how “Pro-Demnity has your back!” so you can sleep at night rather than worry unnecessarily about being the defendant in a lawsuit.

Regrets, I've had a few...How to say you're sorry to a client without losing your insurance coverage

One of the duties of an insured in the event of a “Claim” is described thusly:

WHAT YOU MUST NOT DO:

1. *ADMISSIONS: You must not admit responsibility, assume any obligation or make any commitment of money or services without the Insurer’s consent, even if you believe there may have been an error, omission or negligent act on your part.*

It is almost inevitable that an architect will find itself in the situation where it realizes that an omission or error in its services will generate additional costs or delays on a project. The intention of this program is to provide the architect with the tools to communicate with a client to provide assurance and confidence that “you are on the case” and taking the necessary steps to minimize negative impacts on the client (and its budget or schedule) without triggering a potential denial of insurance coverage under the “Admissions” section quoted above.

Negotiation Skills Workshop...Improving your chances of getting what you need

Negotiations – with clients, subconsultants, contractors, authorities are a part of an architect’s daily life. Pro-Demnity offered Negotiations Workshop programs in 2006 and 2007 that were well received although somewhat generic.

This new program would have more direct relevance for architects dealing with such as:

- Negotiations with Clients and Subconsultants on appropriate scope of services and fees
- Negotiations with Clients and Subconsultants on content of contracts with the Architect
- Contractor’s claims for additional money or time

An important objective is to assist the architect recognize when they should say “No” and walk away from the project, client or subconsultant.

Getting paid...without starting a lawsuit

Getting paid by a client who cannot or would prefer not to is one of the common business challenges facing architects. Unfortunately, efforts to collect outstanding accounts or be compensated for additional services provided by the architect or by its subconsultants are a common trigger for a retaliatory claim against the architect.

Fee disputes are not covered by professional liability insurance. Collection efforts including the costs of pursuing a lawsuit, retaining legal advice to collect the funds due you will come out of your own pocket.

This program will provide tried-and-true approaches to dealing with your clients that can help you reduce the risk that you will find yourself in financial difficulty due to non-payment for your services.

[Resiliency and Durability...Understanding the impact of CSA S478-19 on your practice](#)

Pro-Demnity is particularly familiar with the previous and long standing version of CSA S478 – *Guideline on Durability in Buildings*. Many Ontario architects attended one of our Risk Education seminars that introduced CSA S478 and its implications to architects in starting in 2015.

In 2019, CSA S478 was re-written with the intention that it change from a “guideline” to a “referenced standard” in the NBC and the provincial and territorial building codes – including the OBC. Adoption as a “referenced standard” makes compliance with the provisions in the standard mandatory for compliance with the relevant building code. Upon adoption by the relevant code authorities, the new standard will set minimum requirements to assist designers create “durable” buildings.

Unlike most code requirements, adherence to the new Standard may impact how the architect delivers its services as well the actual outcome evidenced in the design documents and completed building.

In addition, the new Standard is intended to address a new concept of “Resiliency” to the changes in environmental factors that are anticipated will arise due to Climate Change, reflecting the Canadian Government’s commitment to combating Climate Change and strengthening our ability to deal with the impacts of Climate Change, an important objective shared by many architects.

[Introduction to the Home Construction Regulatory Authority...What architects need to know about HCRA](#)

Tarion was previously responsible for registering Ontario’s new home builders and vendors. On February 1, 2021, the registration function moved to the Home Construction Regulatory Authority (HCRA) and was replaced by licensing. The HCRA is responsible for licensing and regulating new home builders and vendors, while Tarion continues to provide warranty protection for homeowners.

The HCRA is a not-for-profit corporation that is designated by the provincial government to administer and enforce the New Home Construction Licensing Act, 2017 and associated regulations. In this role, HCRA regulates new home builders and vendors in the province, including licencing the people and companies who build and sell new homes in Ontario.

This program will provide architects with key information about the role of the HCRA and the impacts it will have on design and construction in the residential sector.

Introduction to the “new” Tarion...understanding Ontario’s New Home warranty program

Research commissioned by Pro-Demnity established that claims involving Multi-Unit Residential projects (essentially condominiums) was the category of building types generating the highest costs for damages and claims expenses borne by Pro-Demnity. Many of these claims will have Pro-Demnity and Tarion involved in the action...often on opposite sides.

However, Tarion’s and Pro-Demnity’s interests are generally aligned from a claims avoidance perspective. Both would prefer that the circumstances that give rise to these claims be averted during the design and construction phases. Many architects are becoming involved with condominium projects for the first time, and many of these are ignorant of the role of Tarion and the impact of the warranty program on their clients and their practice. Accordingly, it would be timely for a refreshed “Introduction to Tarion”.

This program will include:

- the role of Tarion,
- features of the New Home Warranty program,
- application of Tarion’s Builder Bulletin 19R to architectural services
- important risk management lessons learned from claims arising in the residential field
- understanding your Duty of Care to the purchasers of the new homes or condominium units
- avoidance of conflicts of interest that may feature in claims
- Why signing a “Schedule G” is hazardous to your health

TECHNICAL TOPICS RELATED TO THE USE OF PRODUCTS OR SYSTEMS

The following are examples of possible Technical Topics that Pro-Demnity may offer in the future, subject to sufficient interest from architects. Please [let us know](#) your level of interest in any of the following:

Precast Concrete Cladding

The Canadian Prestressed /Precast Concrete Institute (CPCI) has developed several “Best Practice” Guides respecting the design of precast concrete cladding systems.

In our risk management discussions with architects considering the use of various types of precast concrete assemblies, it became apparent that few were aware of these industry guides and technical advice, or the practical implications associated with implementing the advice in their designs and during the construction phase. Other architects who are more experienced with precast confirmed there was a gap between the industry’s advice and architects’ understanding of the advice.

The CPCI has “educational programs” for architects as well as other stakeholders on its own “to do” list.

If there is sufficient interest from architects, Pro-Demnity can collaborate with the CPCI to encourage the development and provide support for technical presentations to Ontario architects.

EIFS – Exterior Insulated Finish Systems

The EIFS industry in Canada has developed a comprehensive EIFS Practice Manual intended as a resource for Design Professionals and Building Officials. The EIFS industry has also developed an educational seminar directed at architects. If there is sufficient interest from architects, Pro-Demnity could collaborate with the EIFS Council to encourage and support technical presentations related to the use of EIFS for Ontario architects.

Other Fenestration Assemblies...Understanding and applying OBC 2012 5.10.4

Pro-Demnity PLI policies include a *Window Wall Endorsement* and the related *Non-Drained Exterior Wall Exclusion*. Amendments to the National Building Code (NBC) – 2015 introduced code provisions that addressed gaps in the codes respecting use of several glass and glazing systems under the general category “Other Fenestration Assemblies”. These provisions were subsequently

adopted by the Ontario Building Code.

Objectives of this program include:

- Awareness of new OBC provisions for Curtain Wall, Window Wall, Storefront and Glazed Architectural Structures
- Learning the Code-accepted definitions of these systems
- Understanding the performance criteria expectations through code-accepted standards for laboratory and field testing
- Adaptation of your architectural practice to reflect these new provisions

OTHER TECHNICAL TOPICS

Please [let us know](#) about any other Technical Topics that you would be interested in learning more about if they were available.