

Claims Examples

Commercial Umbrella Liability

With the number of multi-million dollar settlements on the rise, carrying an Umbrella Liability policy for added protection is a key part of a solid risk management strategy. It is especially prudent when you consider that in Canada, many judgments result in a finding of joint and several liability, which means an individual may be only one per cent negligent but end up paying 100 per cent of the judgment if the others named in the suit do not have assets or insurance.

The following claims examples have been developed to illustrate the types of large loss claims that clients may face, which would require Commercial Umbrella Liability coverage.

1. **Automobile**

An insured driver lost control of her car while driving on a two-lane highway and crossed over the centre line into the oncoming traffic. This resulted in a head-on collision with two vehicles travelling in the oncoming traffic lanes. Two passengers in one of the vehicles were fatally injured, while the driver of the second vehicle sustained a life-threatening head injury. Significant claims ensued for property damage as well as bodily injury. The auto policy limit was \$1 million, while the final amount paid for all claims exceeded \$4 million.

2. **Automobile**

An insured driver hit and seriously injured a pedestrian crossing the street. The pedestrian was a doctor, who suffered permanent brain damage and was no longer able to work. The auto policy limit was \$2 million, while the final claim settlement was \$3.5 million.

3. **Trucking Company**

A driver working for a Canadian trucking company rear-ended a car while delivering tires in the United States. One of the passengers in the car was fatally injured. The final claim settlement was US\$8 million, which shows that insurance limits considered adequate to cover Canadian risks can be inadequate for suits made in the United States.

4. **Building Owner**

Two guests fell down the third-floor exterior wood staircase of an apartment building complex while fighting. They fell down a flight of stairs, then fell through a wood enclosure on the second level landing and then fell to the ground. One of the parties was left a quadriplegic. The final claim settlement against the building owner was \$2 million.

5. **Electrician**

An insured electrician installed a faulty electrical system in a large commercial property. A fire caused by the faulty system destroyed the property and the insured was sued for damages. The final claim settlement was \$3.5 million.

6. **Mechanical Contractor**

An insured mechanical contractor was hired to provide and install the lift elements of a bridge over a major transportation waterway. Years after the bridge was constructed, the lift elements malfunctioned causing damage to the bridge; the bridge was unusable while corrective measures were implemented. The waterway was furthermore temporarily blocked because the bridge could not be used. Numerous claimants were involved in the resulting lawsuit against the mechanical contractor, which was for loss of use of and resultant damage to the bridge. The final claim settlement was \$5 million.

7. **Contractor**

An Ontario cottager who had been drinking leaned against a cottage deck and fell approximately 15 feet. The cottager was rendered a paraplegic. An investigation revealed that the railing around the deck built by a contractor was substantially lower than the Building Code allowed. A claim was filed against the contractor and the final claim settlement was \$1.5 million.

8. **Helmet Manufacturer**

When a motorcycle driver crashed with an automobile on the highway, his helmet flew off, aggravating his injuries. Total damages were assessed at \$12 million, which was one of the largest bodily injury awards at that time. A successful argument by the plaintiff pointed out that the instructions and warnings that came with the helmet were not adequate. Apparently, the helmet was too big, but the instructions did not include a simple test to warn the user to wear a smaller size. An Ontario jury ordered the motorcycle helmet manufacturer to pay damages totaling \$3 million to the motorcycle driver, which represented the helmet manufacturer's portion of the damages. The motorcycle driver was held 20 per cent at fault for driving too fast, while the car driver was found 55 per cent at fault. A few years later, a settlement was reached with the car driver's insurer.

9. **Township Arena**

A nine-year old was permanently and completely disabled after he slipped on a patch of thin ice, while playing hockey at a township-owned arena. He sued the township and was awarded damages of \$10 million; the township only carried a \$7 million liability limit. The verdict was later appealed, but the court upheld the decision. Total cost of this verdict, including defence expenses, interest on the judgment and the cost of appeal exceeded \$12 million.

10. **Shoe Manufacturer**

A young man crashed his car after drinking beer provided by a well-known shoe manufacturer as an incentive for working overtime. The court held that the company had breached the standard of care it owed to the employee by failing to monitor alcohol consumption. Total damages were almost \$3 million. The liability was allocated 75 per cent to the shoe manufacturer and 25 per cent to the employee; the final settlement to the employee was just over \$2 million.

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