

What Have We Paid Lately?

Chubb Canada Claims



The true measure of an insurance carrier is how it responds to and manages your claim. We understand that when you buy insurance, you're really buying peace of mind. Chubb's guiding claims principle has been to treat each customer the way we would like to be treated if we were to experience the same loss - with integrity, empathy, promptness, expertise and fairness. This is the Chubb difference that we bring to all of our lines of business across Canada, with offices in Montreal, Toronto, Calgary and Vancouver.

Here are some examples of policies that we offer and corresponding claims that we have handled and paid lately:

| Type of Coverage | Amount Paid | Details of Claim |
|--|-------------|--|
| D&O (Private Company) - Breach of Fiduciary Duty | \$770,000 | Our Insured hired an engineer who had developed a tool that would "revolutionize" our Insured's manufacturing plant. The tool worked and increased efficiencies for our Insured. About a year after the date of hire, both the Insured and the engineer (now a Director of the Insured organization) were sued by a competitor, and former employer of the engineer, for breach of fiduciary duty, tortious interference with contractual and economic relations and misappropriation of trade secrets. The competitor alleged that the engineer had breached his fiduciary duties owed to the former employer and had made assurances regarding the rights to the tool and future profits due to exclusivity rights. The damages sought were in excess of \$8M. There was no coverage for the allegations against the Insured organization for breach of contract and misappropriation of trade secrets, however, given that both the Director/ engineer and the company were represented by the same counsel and there was full defence costs coverage for the Director/engineer, Chubb covered 90% of all defence costs. Chubb also partnered with the Insured to aggressively defend the matter given that the Director/ engineer had never signed a non-compete agreement and the tool used by our Insured was significantly different from what the engineer had created for the former employer. After discoveries (written and oral), countless motions and amendments to pleadings, the matter settled at mediation for \$70,000, with \$700,000 paid in defence costs. The Insured sent the following email: "This is great, may be able to sleep tonight. First time in a long time." |

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| Commercial Insurance - Masterkey Series | \$430,000 | <p>Our Insured owns and operates a cultural centre. The Insured rented the premise to a student organization for a dance. The contract between the Insured and student organization stipulated the student union was to carry a liability policy naming the Insured as an additional Insured. A fight broke out at the dance and the claimant was struck in the head with a brick, suffering a significant head injury. The plaintiff commenced an action naming both the student union and the Insured. Unfortunately the student union did not adhere to the terms of the contract and did not obtain any insurance. As such only the Insured had any available insurance. As the occupier of the premise there was possibility the Insured could be found at least 1% at fault for the claimant's injuries and required to fund any judgment in favour of the claimant as a result of the joint and several liability doctrine. We suggested mediation. Our strategy at mediation was to point out to the plaintiff the significant amount of contributory negligence and the lack of documented evidence to support the plaintiff's claim for future care costs and loss of future income. We assessed the risks and came prepared to discuss a reasonable settlement based on the merits of the evidence provided to date. With the help of the mediator, we were able to successfully resolve the matter for \$350,000. The mediator was very impressed with the preparation for and our handling of the mediation, He wrote to the adjuster: "Congratulations on getting [the claim] settled. It wasn't so easy - but your intelligence, patience and common sense informed the result. Common sense is a rare commodity these days. You have a healthy dose of it. That is very impressive."</p> |
| Personal Insurance - Masterpiece Deluxe Homeowners Equipment Breakdown Coverage | \$30,000 | <p>Our Insured suffered a power loss that went on for a few days. During the outage the backup generator had been running and then unexpectedly turned off and would not turn back on. A generator service company was contacted and they inspected the equipment. When they tried to start it again the piston came out of the motor/cylinder compartment, rendering it inoperable. The service company confirmed that the model that was being used was no longer suitable for the size of home it was powering. The generator itself was 10 years old. Replacement of the existing generator with like kind and quality would cost \$27,000, however, the service company recommended an alternate model which would cost \$32,000. Chubb agreed to replace the generator with the recommended model, subject to the \$2,500 equipment breakdown deductible. When the claim was reported, the Insured had already received the replacement quote from the service company. As a result, the claim was reported at 9am and a cheque was requested at 3pm the same day. The insured was effusive in their thanks for the prompt response.</p> |
| Executive Protection- Employment Practices Liability | \$2,600,000 | <p>Our Insured Organization terminated its CEO without cause and provided her with 12 months' notice, as stipulated in her employment contract, including all short and long term incentive entitlements during that period. The former CEO sued our Insured seeking in excess of \$7M based on a repudiation of contract theory, claiming a longer notice period and a higher valuation of the incentive entitlements. Chubb appointed its local preferred counsel who knew the industry and specialized in complex employment matters. Litigation continued for 17 years. Experts were retained on the valuation of the incentives and the interpretation of the employment contract. The matter went to a 3 week trial. The trial judge upheld the 12 month contract and awarded a small additional amount representing an increased incentive valuation. The former CEO appealed. The Court of Appeal upheld the trial decision, affirming that when an employment contract says that an executive's termination pay will be "12 months salary" and "salary" is carefully defined in the contract, that that is binding and eliminates any right to "reasonable notice". That is all the employee is entitled to unless he/she has other separate contractual entitlements such as, as she had in this case, long term incentive plan rights. Employment contracts defining termination pay are binding as long as the stated termination pay is greater than any statutory minimums. Chubb supported our Insureds' decision to go to trial (and appeal) on this important point of law and worked with the general counsel, who was managing the litigation directly given the reputational issues, every step of the way for 17 years. Defence costs totaled in excess of \$2M.</p> |

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