
Brooklyn Case Files #1: Achieving a positive claim outcome

Background

The Insured was a building surveyor who provided certification for an Owner Builder (the Plaintiffs) to construct a new dwelling.

In late 2016, the Insured's broker sent Brooklyn a Statement of Claim naming the Insured as the 6th Defendant in Supreme Court of Tasmania's proceedings. The Insured issued a final certificate and certificate of occupancy but it was alleged they failed to identify the faulty installation of the windows, which then lead to leaks.

Damages were sought in excess of AUD150,000.

In order to consider indemnity and advance the defence, the Insured was asked, via the broker, to provide the relevant contract, his file and background information on the dispute.

This was then reviewed by the claims handler, with reference to the terms and conditions of the policy. Indemnity was confirmed within a few days and, because of the location of the proceedings, we engaged one of our experienced panel lawyers in Tasmania to defend the claim.

Once our lawyers incurred costs up to the AUD5,000 inclusive excess, the Insured was billed directly. Prompt payments ensured our lawyers' investigation and defence continued without interruption.

Defence

Following review of the file and discussion between our lawyers and the Insured, it became clear that the Insured identified that the glass in the windows was defective when he performed the occupancy inspection.

He was told by the Owner Builder (now Plaintiffs) that the issues with the windows were being resolved - and before issuing the certificate of occupancy, he was provided with a letter confirming the glass complied with the relevant building code.

The Insured's file included notes which assisted us in defending the claim.

We formed the view that the Insured had no liability and we should remove ourselves from the proceedings.

Our panel lawyers provided the Plaintiffs with copies of the relevant emails as well as an account of what had occurred and asked the Plaintiffs to discontinue seeking damages against the Insured. The offer was initially rejected.

As part of a robust follow-up, our lawyers then provided discovery and a statement from the Insured, made it clear to all other parties that Brooklyn would be seeking costs for compulsory mediation, and would not be making a contribution to any settlement.

Shortly before the mediation was to take place, the Plaintiffs consented to discontinue the claim against the Insured with each party bearing its own costs.

No other party claimed against the Insured and only minimal defence costs were incurred.

The broker was kept informed throughout the process, being provided with an account of the liability, the offers that had been made to the Plaintiffs, the responses to the offers, and of course the good news when we were let out of the proceedings.

To help achieve the best possible outcome ...

- Keep good documentation.
- Provide complete information quickly.

⇒ We can then leverage the information provided and our expert partners to get the best outcome for the Insured.

Quote:

"XL Catlin and its lawyers kept us continually updated as the claim progressed. They quickly recognized the insured was not at fault and defended him until he was released from the proceedings. I have comfort & confidence that XL Catlin protect our clients' interests in a prudent & efficient manner from day one of their appointment."

- The Broker

For more information, please contact:



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