



## ARCHITECTS & ENGINEERS

# Risky Inspection

## The Facts

Homer Watkins Engineering, a civil engineering firm, was retained to provide a limited inspection and design report for a historic building.<sup>1</sup> Several years later, they provided an inspection report for the sale of the same building.

A painting contractor employee, who was working on the historic building, fell three stories sustaining serious injuries after the railing collapsed on a balcony he leaned against. The painting contractor employee filed suit claiming he was permanently, partially disabled and disfigured. After filing suit against a number of parties, Homer Watkins Engineering's inspection report was found during discovery and the suit was amended to add them.

The painting contractor employee contended that while Homer Watkins Engineering's inspection report put the new owner on notice that the railing was too low and posed a safety hazard, it did not go far enough in warning the owner that it should be fixed immediately. While it was felt the height of the railing had nothing to do with the fall, the defense counsel felt the inspection report should have been more detailed as it was dealing with a very old brick and wood building that may have had weaknesses requiring more investigation.

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## The Result

With several of the parties being either out of business or without insurance (in a state with joint and several liability), and the possibility of some liability being attributed to Homer Watkins Engineering, it was felt the exposure was in excess of their available policy limits.<sup>2</sup> The painting contractor employee made a demand for the remaining policy limits. Homer Watkins Engineering made the decision to settle for the remaining limits after defense costs. The cost of the claim was \$447,000 in indemnity and \$53,948 in expenses.

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### RISK FACTOR #1

Inspection reports for prepurchase purposes are not as low risk as they may seem. These reports often have a low fee and if not sufficiently detailed can lead to serious liability.

### RISK FACTOR #2

A design professional should always make sure that the other parties involved in a project have insurance before accepting a job.



This document is for illustrative purposes only and is not a contract. It is intended to provide a general overview of the program described. Please remember only the insurance policy can give actual terms, coverage, amounts, conditions and exclusions. Program availability and coverage are subject to individual underwriting criteria.

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