SUMMARY

Cases on liability for design failure in construction have increased significantly over the years. The reasons for such occurrences are traced to rapid technological developments, changes in the contracting environment and developments in the common law.

This dissertation traces the development of the common law as regard designers' liability for negligence. It was at first thought that the duty of care was applicable only in relation to cases concerning defective chattels where physical damage to person or property exists but this was subsequently extended to cases relating to defective land and buildings and further for pure economic loss unassociated with any physical damage provided close proximity between the affected parties could be established. The courts however appeared to have backed tracked on this extension of liability for pure economic loss.

Apart from the duty of care, the standard of care owed is that expected of the ordinary skilled man, except when a higher skill is professed, the standard of that higher skill will apply.

Liability for design is likely to occur in a few common areas which include, among others, selection and use of materials and delegation of duties to other sub-designers or
contractors. These are examined in detail together with the liability shouldered by public authorities and contractors when they happen to undertake design functions.

The dissertation also traces the common law position with regard to limitation of actions and it is now established law that the right to initiate action commences when the damage occurred and not when it is discovered or ought with reasonable diligence be discovered.

Given the law as it stands, an examination is made of the means the designer could employ to limit his liability as a measure of protection against crippling claims from potential plaintiffs. The use of exclusion clauses, notices, disclaimers, qualifications, or practising under different modes of practice are explored. Professional indemnity insurance and project insurance are also considered as the better forms of protection, ultimately.

The dissertation concludes with recommendations for future work.