



THE PRACTICAL LEGAL GUIDE TO MANAGING INSURANCE DISPUTES AND CLAIMS IN CANADA

Managing insurance disputes and claims is highly technical, complex and constantly evolving.

Avoid costly mistakes. Developed for legal and insurance practitioners, get a thorough understanding of how to navigate insurance policies, and practical strategies for dealing with disputes and claims and mitigating risk in the current climate.

- Comprehending when and why courts circumvent policy wording
- Overview of key principles of interpretation and how to avoid common pitfalls
- Understanding the anatomy and mechanics of the “big four” insurance policies
- Tips for navigating the duties to defend and indemnify, including evidentiary challenges
- Understanding and managing the shifting burden of proof in coverage analysis

PROGRAM CHAIRS

Deborah Berlach
Stieber Berlach LLP

Gord McGuire
Adair Goldblatt Bieber LLP

REGISTRATION OPTIONS

April 8, 2022:
Online - Live
9:00 a.m. – 4:30 p.m. ET

OR

June 3, 2022:
Online Replay
9:00 a.m. – 4:30 p.m. ET

Can't make the date?
Registration includes 120-day unlimited, online access to the recorded program.

Register today at:
[osgoodepd.ca/
insurance-disputes](https://osgoodepd.ca/insurance-disputes)

The Practical Legal Guide to Managing Insurance Disputes and Claims in Canada

Global events, change and virtual proceedings continue disrupt the insurance industry, resulting in new policy interpretations and distinctions by the courts and shifting legal priorities, obligations and processes. As a legal or insurance practitioner, you must have a solid grasp of your up-to-date duties, rights and options.

Focusing on the practical, in one intensive day, get **crucial information, expert guidance and proven tools** to help you better represent your clients' interests and comply with updates in law and practice. **Get the legal guidance and tactics you need, to navigate your shifting risks and obligations.**

Topics Include

- Techniques for reading a policy effectively and identifying common coverages and exclusions, and potential gaps
- Top tips for navigating key challenges under the "big four" insurance policies in the current climate
- Tools for dealing with the imbalance of negotiating power
- Strategies for evaluating quantification of the loss and material changes in risk
- Understanding when obligations are triggered and tips for carrying them out effectively
- Tips for managing issues involving consent, privilege, entitlement, settling and reporting obligations
- Expert insights for becoming a better coverage lawyer by moving beyond case law

Who Should Attend

- Civil litigation lawyers
- In-house corporate and litigation counsel
- Paralegals and litigation law clerks
- Corporate advisors

Register today at:

osgoodepd.ca/insurance-disputes

Agenda

9:00 a.m.

Chairs' Welcome and Introductory Remarks

9:10 a.m.

Interpretation of an Insurance Policy: Overview of Key Principles

Thomas Donnelly

Partner, Thomas Gold Pettingill LLP

- Overview of the key principles of interpretation, including some common challenges to watch out for
- Techniques for determining the parties' intent
- Understanding the imbalance of negotiating power in the creation of the contract and tips for navigating them
- Comprehending when and why courts circumvent policy wording
- Strategies for becoming a better coverage lawyer by moving beyond case law

10:00 a.m.

Health Break

The "Big Four" Insurance Policies: Anatomy, Mechanics and Strategies for Navigating Key Challenges

Covering commercial general liability, property, directors and officers and errors and omissions policies, an expert faculty will guide you through essential considerations, information and legal tools you need to effectively review, analyze and navigate each policy type, including the latest legal and practice updates for managing key risks and issues that may lead to disputes and claims.

10:10 a.m.

The "Big Four" Part One: Commercial General Liability Policies

Marcus Snowden

Principal, Snowden Law Professional Corp.

- How to read a garden variety vs broker manuscript CGL Policy – what you need before you start and how you deal with it once you have it

- Understanding the shifting burden of proof in coverage analysis: no matter which side you're on, you eventually have one
- Working through "other insurance" issues: Does your CGL overlap or respond in priority to one or more other liability policies?
- Duty to Defend applications – evidentiary challenges and best practices including some thoughts on advocating for your policyholder or insurer client

11:00 a.m.
Health Break

11:10 a.m.

**The "Big Four" Part Two:
Property Policies**

Christopher Dunn

Partner, Dutton Brock LLP

Natalie Leon

Partner, Forbes Chochla Leon LLP

- How to read a property policy – overview of key terms, players and logistics
- Who is an insured
 - Named insured
 - Loss payees
 - Mortgagee Clause
- Insuring Agreement
 - All-risks vs specified perils
 - What is "physical" damage
- Exclusions
 - Losses caused directly vs indirectly (Consolidated Bathurst)
 - Faulty design/workmanship exclusion
 - Intentional acts (recent legislative changes re: innocent co-insured)
- Quantification of the loss
 - Replacement cost vs actual cash value
 - Guaranteed replacement cost coverage
 - Materials of like kind and quality
- Conditions
- Material change in the risk
 - Fraud
 - Limitation period

12:00 p.m.
Lunch Break

12:45 p.m.

**The "Big Four" Part Three:
Directors and Officers Policies**

Heather Gray

Partner, Clyde & Co Canada LLP

Catherine Tyndale

Senior Counsel, Clyde & Co Canada LLP

- Brief history of D&O coverage
- The Insuring Agreements – Side A, B and C
- What is a claim vs a circumstance?
- Understanding coverage for "Wrongful Acts"
- Importance of the Insured's capacity
- Duty to Defend vs Reimbursement policies
- A look at some common exclusions (Insured vs Insured exclusion/Personal Profit exclusions)

1:30 p.m.
Health Break

1:40 p.m.

**The "Big Four" Part Four:
Errors and Omissions Policies**

Jamie Macdonald

Partner, Norton Rose Fulbright LLP

- How to read an E&O policy – identifying common coverages and exclusions
- Reporting claims under an E&O policy – special considerations when dealing with claims-made-and-reported policies vs occurrence policies
- Settling claims covered by E&O policies and working with Consent to Settle clauses
- Dealing with cyber claims under E&O policies

2:30 p.m.
Health Break

2:40 p.m.

Understanding the Duties to Defend and Indemnify

Deepshikha Dutt

Partner, Dentons Canada LLP

Andrea Sanche

Partner, Ricketts Harris LLP

- Overview of the key principles and objectives of the duty to defend and the duty to indemnify
- The duty to defend distinguished from the duty to indemnify
- Tips for avoiding common challenges and pitfalls
- Practical considerations for navigating the lawyer's role/duty and for effective communication
- Impact on denial of coverage and reservation of rights
- Impact on allocation issues between insurers

3:40 p.m.
Health Break

3:50 p.m.

Navigating Ethical and Professionalism Challenges – Case Analysis: *Loblaw Companies*

John Nicholl

Partner, Clyde & Co LLP

- Using the recent *Loblaw* decision as a guide, you will review key ethical and professional obligations, and get practical information on how to navigate through potential minefields of liability.
- Understanding when and why things go wrong
 - Summary of key ethical and professionalism obligations, what they really mean and why they're so important
 - "Lessons learned" from *Loblaw Companies*: navigating the tripartite relationship and other obligations
 - Overview of the various perspectives, roles and obligations of all stakeholders and parties
 - Where do we go from here? Strategies for tiptoeing through the minefield while the appeal is pending

Chairs

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Faculty

Thomas Donnelly
Partner,
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Jamie Macdonald
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“Studying and learning about insurance policies can be a daunting task. This course helped me understand how to properly read an insurance policy and follow its unique format by breaking down the anatomy of an insurance policy. I also valued learning more about Directors and Officers Insurance and the differences between the duty to defend vs. indemnify. Excellent online experience and useful materials.”

Hans A. Klohn, BBA, LLB, LLM
Director of Risk Management and Administration Services,
OSCO Group Services Ltd.

Registration Details

Fee per Delegate: \$695 plus tax
Newly Licensed*: \$347.50 plus tax

**This fee applies to newly licensed professionals within the past 2 years*

Fees include online attendance, electronic program materials and technical support. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

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