

## KEY AUTHORS



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## OUR INSURANCE EXPERTISE

We cover all facets of insurance litigation. Our lawyers draw on extensive trial and appellate experience to advise clients on the spectrum of policy, coverage, and defence matters. With over three decades of experience, Lenczner Slaght has a proven record in litigating coverage cases among and against insurers involving issues including trigger of coverage, allocation of defence and indemnity, covered/excluded claims, obligations among primary and excess insurers, reinsurance, drop-down matters and run-off coverage.

## YEAR IN REVIEW

# Insurance

*“Ambiguities, conflicts, and outdated language in insurance policies should be reviewed and clarified at the time of contracting. Courts will not hesitate to enforce it.”*

### What was the most interesting development of 2025, and why?

In 2025, decisions from Canadian appellate courts continued to forcefully reiterate the importance of clear contractual language in insurance policies and the need to define policy limits unambiguously.

In [903905 Ontario Limited v Dominion of Canada General Insurance Company](#), the insurance policy contained a clause that excluded coverage for property damage from watermain discharge if water entered the property through basement walls. When a watermain broke and water flooded into the property via a pipe that transected the basement wall, the insurer denied coverage because the pipe formed part of the wall. The Court summarily dismissed the insurers' argument, relying on the distinct plain meanings of “wall” and “pipe”

and the doctrine of *contra proferentem* (which provides that ambiguous policy language must be interpreted against the insurer who drafted it).

The British Columbia Court of Appeal reached a similar conclusion in [Busato v Gore Mutual Insurance Company](#), unanimously overturning the lower court's decision. The Court found that the exclusion clause at issue was ambiguous and should be construed against the insurers. The Court was clear that insurers are free to narrow coverage as they wish, but only if they do so clearly, explicitly, and transparently.

In [2689686 Ontario Inc v Lloyd's Underwriters](#), the Ontario Court of Appeal upheld a summary judgment decision in favour of the insurer because there was no ambiguity in the relevant exclusionary clause or its application to the facts of the case.

### What's the primary takeaway for businesses from the past year?

Insurers and insureds alike should recognize that courts will not hesitate to enforce the agreed language of an insurance policy. But any apparent ambiguities arising from outdated policy language or conflicting internal provisions will be construed against insurers. Any such ambiguities, conflicts, and outdated language should be reviewed and clarified at the time of contracting. This is particularly important from the insurer's perspective to ensure a specific exclusion will be enforceable. If any aspect of a policy is of critical importance to a party, that party should take extra caution to ensure the language and effect of the clause are clear.

### What's one trend you are expecting in 2026?

Along with the rest of the world, the insurance industry has turned to generative AI to assist with creating efficiencies in their business models, including in the underwriting process.

## VIEW FULL SNAPSHOT

In the fall of 2025, Canada's federal regulator, the Office of Superintendent of Financial Institutions (OSFI), introduced a comprehensive set of rules governing AI and predictive models, and presented insurers with a May 2027 compliance deadline. With a rapid rise in digitalization and AI, there is increased reliance on machine-learning models to support or drive decision-making. The guideline emphasizes the importance of ensuring that the use of predictive modeling is accurate, fair, and representative of consumers, in part to avoid bias from models based on historical data. It will be interesting to see how insurers respond to the stricter rules around the use of AI modeling and what implications this will have for the insurance industry.

We will also be following the impact of the Supreme Court of Canada's decision in [Emond v Trillium Mutual Insurance Co](#). The decision makes clear that even with unambiguous language, insurers cannot offer coverage that is then nullified elsewhere in the policy. While exclusion clauses may limit or reduce coverage, they will not be applied so as to defeat the very objective of having purchased the relevant coverage.