



NEO J. TUYTEL

Direct office 604.643.3180
Cellular 604.307.9329
Email njt@cwilson.com

800-885 West Georgia Street
Vancouver, BC V6C 3H1 Canada
Main Tel. 604.687.5700
Fax 604.687.6314
Website www.cwilson.com

Areas of Practice

Insurance claims and coverage disputes, as well as environmental and other commercial litigation and Alternative Dispute Resolution.

Profile

Neo Tuytel is a partner with Clark Wilson LLP. He is a member of the firm's Insurance, Business Litigation and ADR practice groups and the Chair of the Environmental Law practice group.

Mr. Tuytel obtained his LL.B. from The University of British Columbia in 1984 and was called to the bar in 1985. He was also accredited as a mediator in 1994.

Mr. Tuytel has appeared before all levels of court as well as administrative decision-makers in British Columbia. He was winning counsel before the Supreme Court of Canada in the landmark overlapping coverage case: *Family v. Lombard*, as well as various cases in the BC Court of Appeal. Mr. Tuytel also acts as a mediator.

Mr. Tuytel is a prolific author and speaker (see list of Publications & Presentations below).

Representative Work

Winning in the Supreme Court of Canada and setting a precedent in Canada and the Commonwealth for resolving disputes with respect to overlapping policies of liability insurance (*Family Insurance v. Lombard Canada*, 2002).

Successfully defending a subrogated claim for a warehouse fire, in the BC Court of Appeal, based on insurance covenants in a lease and the doctrine of "tort immunity" (*North Newton v. Alliance Woodcraft*, 2005).

Upholding a denial of coverage under an excess motor vehicle policy based on a new medical condition as a material change in risk (*Lucow v. Canadian Direct Insurance*, 2004).

Enforcing liability insurance coverage on behalf of a developer for liability arising out of the collapse of a rail bed after completion of an industrial park construction project.

On behalf of wrap-up and CGL insurers, settling a \$3 million building envelope claim directly with the owner-developer, for a fraction of the amount involved and with virtually no litigation costs.

Enforcing coverage against a CoC insurer for increased design and construction costs of an office building due to the failure of excavation shoring.

Defending former owners of contaminated sites against claims for clean-up costs and enforcing coverage under related liability insurance policies.

Obtaining the dismissal, without costs, of an infant brain injury claim against a ski rack manufacturer.

Orchestrating a precedent-setting, multi-party settlement of one of North America's worst pollution problems – the more than \$75 million clean-up of acid rock drainage into Howe Sound from the historic Britannia mine.

Resisting coverage claims against an excess wrap-up E&O policy arising out of design defects in a \$100 million pipeline project.

Enforcing coverage against CGL insurers and negotiating an omnibus agreement for the insurance-funded defence and settlement of several leaky building claims against a prominent real estate developer.

On behalf of a CGL insurer, obtaining substantial recovery under an overlapping wrap-up policy with respect to settlement of a leaky condo action.

Advising homeowners insurers with respect to coverage and settling directly with plaintiff's counsel a claim against one of several children and their parents for the destruction of a school by fire.

As coverage counsel, coordinating settlement on behalf of multiple defendant insureds, claims for traumatic injuries to a plaintiff motorist arising out of a rock being dropped from a highway overpass.

Both defending and prosecuting, and in all cases settling well before trial, errors and omissions claims against insurance brokers.

Memberships & Associations

Member, Law Society of British Columbia (1985)

Member, Canadian Bar Association (Insurance, Environmental, Civil Litigation and ADR subsections)

Contributing Editor, *Canadian Journal of Insurance Law*

Publications & Presentations

In addition to numerous shorter articles on insurance, as well as environmental and other commercial litigation-related topics, Mr. Tuytel has published the following major papers:

- *Environmental Liability and Insurance Coverage in British Columbia* (updated 2006)
- *Insurance Coverage For Construction Deficiency Claims: Lessons From BC's Leaky Condo Wars* (updated 2006)
- *Who's on the Risk (and for How Much?): Allocating and Apportioning Indemnity and Defence Costs Among Insurers in Canada* (updated 2004)
- *Design Professionals' Errors and Omissions Coverage* (updated 2004)
- *Sexual Misconduct Claims and Insurance Coverage* (1997)
- *Relief From Forfeiture Under Insurance Policies* (1995)
- *When a Denial is Not a Denial: Waiver, Estoppel and Confirmation of Causes of Action Under Insurance Policies* (updated 1995)
- *Agents' and Brokers' Liability* (updated 1994)
- *Awards of Costs for Exaggerated Claims* (1994)
- *Fraudulent Property Insurance Claims* (1993)
- *The Prospects for Asbestos and Other Toxic Tort Litigation in Canada* (1990).

Mr. Tuytel has also presented on these and other topics at numerous seminars under the auspices of the Insurance Institutes of British Columbia, Alberta and Ontario, the Insurance Brokers' Association of BC, the Credit Union Insurance Services Association, the Canadian Risk and Insurance Managers Society, the BC and Northern Alberta Risk and Insurance Managers Associations, the Continuing Legal Education Society of BC, the Canadian Institute, the Pacific Business and Law Institute and Insight Educational Services.