

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

BETWEEN:

C.M. CALLOW INC.

Appellant (Respondent)

- and -

TAMMY ZOLLINGER, CONDOMINIUM MANAGEMENT GROUP, CARLETON
CONDOMINIUM CORPORATION NO. 703, CARLETON CONDOMINIUM
CORPORATION NO. 726, CARLETON CONDOMINIUM CORPORATION NO. 742,
CARLETON CONDOMINIUM CORPORATION NO. 765, CARLETON CONDOMINIUM
CORPORATION NO. 783, CARLETON CONDOMINIUM CORPORATION NO. 791,
CARLETON CONDOMINIUM CORPORATION NO. 806, CARLETON CONDOMINIUM
CORPORATION NO. 826, CARLETON CONDOMINIUM CORPORATION NO. 839,
CARLETON CONDOMINIUM CORPORATION NO. 877

Respondents (Appellants)

CANADIAN FEDERATION OF INDEPENDENT BUSINESS and
CANADIAN CHAMBER OF COMMERCE

Interveners

FACTUM OF THE INTERVENER,
CANADIAN FEDERATION OF INDEPENDENT BUSINESS
(pursuant to Rules 37 and 42 of the *Rules of the Supreme Court of Canada*)

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TABLE OF CONTENTS

PART I - OVERVIEW AND STATEMENT OF FACTS 1

 A. Overview 1

 B. Statement of Facts 1

PART II - STATEMENT OF POSITION ON ISSUES RAISED BY THE APPELLANT 2

PART III - STATEMENT OF ARGUMENT 2

 A. Active non-disclosure constitutes a breach of the duty of honest contractual performance2

 B. Active non-disclosure should be defined in a manner consistent with existing legal
doctrines 4

 1. Half-truths 5

 2. Concealment of the truth..... 6

 3. Positive steps that mislead the plaintiff 8

 4. Failure to correct a representation that became untrue 9

 5. Summary 10

PART IV - SUBMISSIONS CONCERNING COSTS..... 10

PART V - ORDER SOUGHT 10

PART VI - SUBMISSIONS ON CASE SENSITIVITY 11

PART VII - TABLE OF AUTHORITIES 12

PART I - OVERVIEW AND STATEMENT OF FACTS

A. Overview

1. The issue raised in this appeal is whether a party can breach the duty of honest contractual performance through active non-disclosure about matters relating to the performance of a contract. The Canadian Federation of Independent Business (“**CFIB**”) has intervened in this appeal to submit that the answer is yes.

2. In the landmark decision of *Bhasin v. Hrynew*, this Court recognized the duty of honest contractual performance flowing from the common law organizing principle of good faith.¹ The Court unanimously held that, although the duty is not tantamount to a duty of loyalty or of disclosure, it requires contractual parties not to “lie or otherwise knowingly mislead each other about matters directly linked to the performance of the contract.”²

3. CFIB submits that, based upon the principles articulated in *Bhasin*, non-disclosure can constitute a breach of the duty of honest performance. However, such a breach occurs only when the non-disclosure is *active* — that is, when a contractual party’s silence is accompanied by other words, conduct, or circumstances that materially contribute to the counterparty being misled.

4. Existing legal doctrines, including deceit, fraudulent misrepresentation, fraudulent concealment, and estoppel, already recognize that active non-disclosure can constitute a misrepresentation in appropriate circumstances. The law of honest contractual performance should be developed in a manner consistent with those doctrines. This approach to the law of honest contractual performance strikes a workable and just balance between two competing interests. On the one hand, contractual parties should be able to expect a commercially reasonable minimum standard of honesty from their contractual partners; and on the other, the law of honest performance should be defined clearly to provide certainty and predictability and reduce legal costs.

B. Statement of Facts

5. CFIB takes no position on the facts.

¹ *Bhasin v. Hrynew*, 2014 SCC 71 [“*Bhasin*”].

² *Bhasin* at para. 73.

PART II - STATEMENT OF POSITION ON ISSUES RAISED BY THE APPELLANT

6. CFIB intervenes to make two submissions. First, active non-disclosure constitutes a breach of the duty of honest contractual performance. Second, “active non-disclosure” should be defined in a manner consistent with existing legal doctrines that already recognize that non-disclosure can constitute a misrepresentation in appropriate circumstances.

PART III - STATEMENT OF ARGUMENT

A. Active non-disclosure constitutes a breach of the duty of honest contractual performance

7. Based on the principles that this Court articulated in *Bhasin*, active non-disclosure may constitute a breach of the duty of honest contractual performance. In defining the duty, the Court held that “parties must not lie or otherwise knowingly mislead each other about matters directly linked to the performance of the contract.”³ Similarly, the Court noted that “misleading or deceitful conduct will fly in the face of the expectations of the parties.”⁴ The distinction drawn between “lying” and “deceit” on the one hand, and “knowingly misleading” on the other, indicates that something less than an explicit and bald misstatement can constitute a breach of the duty in appropriate circumstances.

8. The duty of honest contractual performance should not be limited to avoiding outright lies. *Bhasin* recognized that commercial parties “reasonably expect a basic level of honesty and good faith in contractual dealings” and that “a basic level of honest conduct is necessary to the proper functioning of commerce.”⁵

9. Simply put, reasonable contractual parties do not expect that they may be dishonest with one another when performing their contractual obligations.⁶ They also would not understand dishonesty to be limited to outright lies. Affirming that active non-disclosure that “knowingly misleads” a contractual partner constitutes a breach of the duty of honest performance accords both with commercial expectations and the broader family of law on misrepresentation.

³ *Bhasin* at para. 73 (emphasis added).

⁴ *Bhasin* at para. 60 (emphasis added).

⁵ *Bhasin* at para. 60.

⁶ *Bhasin* at para. 81.

10. Limiting the duty of honest contractual performance to a mere obligation not to tell outright lies would be an impoverished reading of *Bhasin*. It would also incentivize a variety of undesirable behaviours. For example, a party may feel emboldened to tell a contractual counterparty half-truths, deliberately conceal facts, or remain silent while taking other steps whose cumulative effect is to mislead the counterparty.

11. However, while the duty of honest performance recognized in *Bhasin* extends beyond a mere duty not to tell outright lies, *Bhasin* also made clear that the duty of honest performance is not “a duty of loyalty or of disclosure” and that it does not “require a party to forego advantages flowing from the contract.”⁷ In particular, the duty of honest performance should not be used as a pretext for a court to insert into a contract unbargained-for duties of disclosure or notice.⁸ Such an extension of the duty would undermine the objectives of promoting certainty and predictability in commercial dealings that animated the Court’s decision in *Bhasin*. It would be especially confusing for small and medium sized businesses, like the CFIB’s members, which do not have the resources to be able to obtain legal advice about every contract they enter, and need to be able to rely upon the explicit notice and disclosure requirements in their agreements.

12. CFIB thus submits that for purposes of the duty of honest performance that applies to every contract and every type of relationship between contracting parties, a simple failure to disclose a material fact, without more, does not rise to the level of “actively misleading or deceiving the other contracting party.”⁹ This result would be consistent with cases in several contexts holding that silence, in and of itself, is usually not sufficient to constitute a misrepresentation.¹⁰ Existing legal

⁷ *Bhasin* at para. 73.

⁸ *Styles v. Alberta Investment Management Corporation*, 2017 ABCA 1 at paras. 53-54, leave to appeal to S.C.C. refused, [2017] S.C.C.A. No. 76.

⁹ *Bhasin* at paras. 86-87.

¹⁰ See e.g., *Ryan v. Moore*, 2005 SCC 38 at paras. 76-77; *Outaouais Synergist Inc. v. Lang Michener LLP*, 2013 ONCA 526 at paras. 76-77; *Alevizos v. Nirula*, 2003 MBCA 148 at para. 19 [“*Alevizos*”]; *Sidhu Estate v. Bains* (1996), 25 B.C.L.R. (3d) 41 (C.A.) at para. 30 [“*Sidhu Estate*”], leave to appeal to S.C.C. refused, [1996] S.C.C.A. No. 403, Book of Authorities [“**BA**”], Tab 4.

doctrines already provide for a positive duty to disclose material facts where that duty is required by the special relationship between the contracting parties, such as in insurance contracts.¹¹

B. Active non-disclosure should be defined in a manner consistent with existing legal doctrines

13. The circumstances in which non-disclosure constitutes a breach of the duty of honest contractual performance should be articulated in a manner that is easily understandable for less sophisticated commercial entities. Simplicity, precision and consistency with long-established legal norms ensure that the law of honest performance does not, as this Court warned in *Bhasin*, “veer into a form of *ad hoc* judicial moralism or ‘palm tree’ justice.”¹² Predictability and familiarity also make it easier for commercial parties to understand the legal consequences of their and their counterparties’ conduct without incurring excessive legal costs, and reduce the likelihood of litigation in the event of a dispute. These concerns are particularly acute for small and independent businesses, which are often not in a position to engage legal counsel or bring litigation every time they face a legal issue that could implicate the duty of honest performance.

14. Existing legal doctrines — including tort, contract, fraudulent concealment and estoppel — already provide a catalogue of scenarios defining when non-disclosure is “active” and constitutes a misrepresentation. These doctrines are intelligible, illuminated by a body of case law, and already well-understood by commercial parties. Defining the circumstances in which non-disclosure constitutes a breach of the duty of honest contractual performance in a manner consistent with these doctrines¹³ will continue to “bring a measure of coherence and predictability to the law and...bring the law closer to what reasonable commercial parties would expect it to be,” which this Court recognized as a worthy objective in *Bhasin*.¹⁴

¹¹ *Bhasin* at para. 86.

¹² *Bhasin* at para. 70.

¹³ In *Bhasin*, this Court already recognized that the duty of honest performance “has similarities with the existing law in relation to civil fraud and estoppel”: *Bhasin* at para. 88. The duty can and should be further developed in a manner consistent with those and other doctrines.

¹⁴ *Bhasin* at para. 41.

15. Existing case law holds that non-disclosure is “active” and can constitute a misrepresentation when (1) the defendant states a half-truth; (2) the non-disclosure is coupled with efforts by the defendant to conceal the truth; (3) the non-disclosure is accompanied by other positive steps on the part of the defendant that rendered the non-disclosure misleading to the plaintiff; or (4) the defendant fails to correct a representation that, though true when made, has since become untrue. Each of these lines of cases will be discussed in turn. CFIB submits that they should all be drawn upon to assist in defining when non-disclosure is a breach of the duty of honest contractual performance.

1. Half-truths

16. A half-truth — the knowing “omission of anything which is required to render completely true that which without it is not completely true” — constitutes a misrepresentation in several legal contexts.¹⁵ Matters left unsaid but implied can be as misleading as direct statements. While the duty of honest performance does not create positive obligations of disclosure, where a party chooses to speak but deliberately omits material facts in order to mislead the counterparty, commercial parties would understand the half-truth as dishonest.

17. In *Alevizos v. Nirula*, the Manitoba Court of Appeal referred to the following passage from *The Law of Actionable Misrepresentations* with approval:

To state a thing which is true only with qualifications or additions known to, but studiously withheld by, the representor, is to say the thing which is not. Such a statement is a “lie”, and one of the most dangerous and insidious forms of lie. “If a man...professing to answer a question, select[s] those facts only which are likely to give a credit to the person of whom he speaks, and keep[s] back the rest, he is a more artful knave than he who tells a direct falsehood.”¹⁶

18. In *Alevizos*, for example, the plaintiffs were awarded damages for deceit. They were purchasing a house and, upon noticing blackening and staining around certain windows, asked whether the property had flooding or leakage issues. The defendant vendors disclosed a past

¹⁵ *Alevizos* at para. 21, citing *Halsbury’s Laws of England*, 4th ed. reissue (London: Butterworths, 1998), vol. 31 at paras. 749-50; see also *Freeman v. Perlman*, 1999 BCCA 40 at paras. 11-13.

¹⁶ *Alevizos* at para. 25, citing *The Law of Actionable Misrepresentations*, 3rd ed. (London: Butterworths, 1974) at p. 94, and *Tapp v. Lee* (1803), 127 E.R. 200 at 203.

flooding incident but did not mention that water also leaked in during heavy rainfalls.¹⁷ The Court of Appeal held that when the vendors chose to answer the purchasers' inquiry, they were required "to do so honestly and completely" and their failure to do so constituted "a positive falsehood."¹⁸

19. Similarly, in *Panzer v. Zeifman*, the Ontario Court of Appeal held that a purchaser was induced to enter into a real estate transaction by a misrepresentation, because what was in fact a common driveway was presented as a private driveway. The court held that, though "neither the vendor nor the agents expressly stated anything which was untrue", given "what the agents said...and the manner in which the matter was presented the purchaser here could only have reached a conclusion which in fact was wrong."¹⁹ In *C.R.F. Holdings v. Fundy Chemical International Ltd.*,²⁰ a purchaser was awarded damages for fraudulent misrepresentation that induced it to enter into a contract, when the defendant vendor told the purchaser that slag on the property would make "excellent fill". The defendant omitted to mention that the slag was radioactive.

2. Concealment of the truth

20. Non-disclosure has also been held to constitute a misrepresentation where, in addition to not disclosing a fact to the plaintiff, the defendant also took active steps to conceal that fact. "Active concealment of a fact" — that is, "any act done with intent to prevent a fact from being discovered" — "is equivalent to a positive statement that the fact does not exist".²¹ This principle has been applied in many contexts.

21. In the leading case of *Abel v. McDonald*,²² for example, the plaintiff purchasers were awarded damages for deceit after the defendant vendors took steps to conceal defects. Prior to the closing of a real estate transaction, the basement of the building dropped several inches, causing

¹⁷ *Alevizos* at paras. 5-6, 11-14, 37-39.

¹⁸ *Alevizos* at para. 38.

¹⁹ *Panzer v. Zeifman* (1978), 20 O.R. (2d) 502 (C.A.) at para. 22, Appellant's Book of Authorities ["**Appellant BA**"], Vol. I, Tab 19.

²⁰ *C.R.F. Holdings Ltd. v. Fundy Chemical International Ltd.* (1981), 33 B.C.L.R. 291 (C.A.). See also *MacLeod v. Ruck* (1985), 3 B.C.L.R. (2d) 35 (C.A.).

²¹ *Alevizos* at para. 27, citing *Leeson v. Darlow*, [1926] 4 D.L.R. 415 at 432 (Ont. C.A.).

²² *Abel v. McDonald*, [1964] 2 O.R. 256 (C.A.) ["**Abel**"], Appellant BA, Vol. I, Tab 3.

damage. The vendors not only failed to disclose the damage; they also took steps to prevent the plaintiffs from discovering it. They cancelled a pre-arranged trip to allow the plaintiffs to visit the property, refused the plaintiffs access to the basement, and closed the blinds so that the damage in the basement was not visible from the outside.²³ The Court of Appeal held that the defendants committed “fraud through active non-disclosure” because, “with the knowledge that the damage to the premises had occurred”, they “actively prevented as far as they could that knowledge from coming to the notice of the [plaintiffs].”²⁴

22. Another example of active concealment can be found in *Sidhu Estate v. Bains*.²⁵ The defendant, a director of a company, informed a third party that he and another person had invested in the company, which was not the case; this induced the third party to invest.²⁶ In the defendant’s presence, the third party then called the plaintiff, repeated the mistaken information, and encouraged her to participate, which she did.²⁷ The court concluded that the defendant was liable for deceit on the basis of “active concealment”: when the third party conveyed the false information to the plaintiff in the defendant’s presence and the defendant remained silent, the defendant “tacitly confirmed the false information as true.”²⁸

23. A parallel can also be drawn to the law of fraudulent concealment, which provides that a limitation period is tolled where the defendant takes steps to “hide, secret, cloak, camouflage, disguise, [or] cover-up the conduct or identity of the wrongdoing” to prevent the plaintiff from

²³ *Abel* at paras. 5-9.

²⁴ *Abel* at para. 9; see also *Gronau v. Schlamp Investments Ltd.* (1974), 52 D.L.R. (3d) 631 (M.B. Q.B.) (plaintiff purchaser entitled to rescind contract for purchase of apartment block, because defendant vendor did not disclose existence of serious crack in walls and had installed temporary patching with matching bricks to conceal the crack), BA, Tab 1; *Hepting v. Schaaf*, [1964] S.C.R. 100 (defendant vendors presented house to plaintiff buyer as having a rentable suite, while concealing that no permit to build the suite existed), BA, Tab 2.

²⁵ *Sidhu Estate*.

²⁶ *Sidhu Estate* at paras. 10-11.

²⁷ *Sidhu Estate* at para. 18.

²⁸ *Sidhu Estate* at paras. 30, 33.

recognizing his or her cause of action.²⁹ In other words, to establish fraudulent concealment, the plaintiff must show that the defendant “knowingly or recklessly concealed the cause of action and that its conduct was unconscionable.”³⁰

3. Positive steps that mislead the plaintiff

24. In addition to the line of cases where courts have held that non-disclosure coupled with concealment of the facts constitutes a misrepresentation, courts have also held that non-disclosure coupled with other positive steps that mislead the plaintiff can constitute a misrepresentation.

25. *General Teamsters, Local Union No. 362 v. Consolidated Fastfrate Inc.*³¹ is one such case in the estoppel context. There, an employee took a leave of absence to pursue another job. Unbeknownst to the employee, the collective agreement required the union’s consent to a leave in order to preserve the employee’s seniority.³² Despite having several opportunities to do so, the union did not draw this provision to the employee’s attention or provide its consent, though a union steward “on several occasions allayed [the employee’s] concern about the new job and told him not to worry as he had 90 days to see if it was going to work out.”³³ The court held that the union was estopped from insisting on compliance with the consent provision, because the steward’s conduct “went beyond the situation of silence or mere acquiescence” and misled the employee into thinking that the union supported the leave.³⁴

26. Similarly, in *Voyager Petroleum Ltd. v. Vanguard Petroleum Ltd.*,³⁵ the defendant was estopped from denying that it had consented to a contract when its silence, together with its positive conduct, misled the plaintiff. The plaintiff sent a contract to the defendant for execution. The defendant then instructed a trustee to execute the agreement and return it to the plaintiff; the

²⁹ *Zeppa v. Woodbridge Heating & Air-Conditioning Ltd.*, 2019 ONCA 47 at para. 62; *Pioneer Corp. v. Godfrey*, 2019 SCC 42 at para. 54.

³⁰ *H. (V.A.) v. Lynch*, 2008 ABQB 448 at para. 149, aff’d 2009 ABCA 221.

³¹ *General Teamsters, Local Union No. 362 v. Consolidated Fastfrate Inc.*, 2008 ABQB 230 [“**Teamsters**”].

³² *Teamsters* at para. 11.

³³ *Teamsters* at para. 47.

³⁴ *Teamsters* at para. 47.

³⁵ *Voyager Petroleum Ltd. v. Vanguard Petroleum Ltd.* (1982), 17 Alta. L.R. (2d) 212 (Q.B.) [“**Voyager**”], aff’d (1983), 149 D.L.R. (3d) 417 (C.A.).

plaintiff mistakenly believed that the trustee had the capacity to bind the defendant, but that was not the case.³⁶ Believing that the agreement was fully executed, the plaintiff began to implement the programs referenced in it.³⁷ The defendant knew of the plaintiff's error and said nothing to correct it; in fact, it "encouraged" the plaintiff's mistaken belief, including by accepting royalty payments pursuant to the unexecuted agreement.³⁸ The Alberta Court of Appeal held that the defendant was estopped from denying that the trustee executed the agreement on its behalf.

27. These cases arise in a variety of factual and legal contexts, but a single thread runs through them: when a party fails to disclose a fact, and then conceals that fact from discovery, or takes other positive steps whose cumulative effect is to mislead a counterparty, the non-disclosure constitutes a misrepresentation. The same should be true in the law of honest performance.

4. Failure to correct a representation that became untrue

28. Courts have also held that non-disclosure can constitute a misrepresentation when a party, after having made a statement believing it to be true, subsequently finds out that it is untrue and fails to correct it.³⁹

29. For example, in *K.R.M. Construction Ltd. v. British Columbia Railway Company*, the plaintiff and defendant were negotiating a contract for construction of a railway extension.⁴⁰ The plaintiff based its cost estimates on its understanding of the railway construction plan.⁴¹ During the negotiations, the defendant's representative disclosed that a minor revision of the planned line was contemplated, which was true at the time.⁴² Subsequently, and before the contract was executed, the defendant decided on a significant revision to the plan that would "seriously affect"

³⁶ *Voyager* at paras. 64, 80.

³⁷ *Voyager* at para. 66.

³⁸ *Voyager* at paras. 79-81.

³⁹ *Toronto Dominion Bank v. Leigh Instruments Ltd. (Trustee of)* (1998), 40 B.L.R. (2d) 1 (Ont. Ct. J. (Gen. Div.)) at para. 498, aff'd 45 O.R. (3d) 414 (C.A.); *Rainbow Industrial Caterers Ltd. v. Canadian National Railway Company* (1988), 30 B.C.L.R. (2d) 273 (C.A.) at para. 73, aff'd on other grounds, [1991] 3 S.C.R. 3, BA, Tab 3; *Kerr v. Danier Leather*, 2007 SCC 44 at para. 36.

⁴⁰ *K.R.M. Construction Ltd. v. British Columbia Railway Company* (1982), 40 B.C.L.R. 1 (C.A.) [**"K.R.M."**].

⁴¹ *K.R.M.* at paras. 51-54.

⁴² *K.R.M.* at para. 49.

the plaintiff's cost estimate, but the defendant did not disclose the revision to the plaintiffs until after the contract was executed.⁴³ The court held that the defendant's failure to correct its prior statement that only a minor revision to the line was contemplated constituted a fraudulent misrepresentation that induced the plaintiff to enter the contract and awarded the plaintiff damages for deceit.⁴⁴

30. Similarly, in *Performance Industries Ltd. v. Sylvan Lake Golf & Tennis Club Ltd.*, this Court held that the plaintiff was entitled to rectification of a contract after the defendant knowingly permitted the plaintiff to sign a written contract, which the plaintiff had not read, that did not reflect the parties' prior verbal understanding.⁴⁵

5. Summary

31. Existing case law across multiple disciplines provides a rich catalogue of examples in which active non-disclosure of a fact constitutes a misrepresentation. The law of honest contractual performance should be developed in a manner consistent with those principles.

PART IV - SUBMISSIONS CONCERNING COSTS

32. CFIB seeks no costs and asks that no costs be awarded against it.

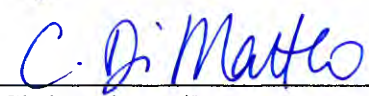
PART V - ORDER SOUGHT

33. CFIB has been granted permission to present oral argument not exceeding five (5) minutes.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 18th day of November, 2019.


Catherine Beagan Flood


Nicole Henderson


Christopher DiMatteo

⁴³ *K.R.M.* at paras. 56-58.

⁴⁴ *K.R.M.* at para. 67.

⁴⁵ *Performance Industries Ltd. v. Sylvan Lake Golf & Tennis Club Ltd.*, 2002 SCC 19.

PART VI - SUBMISSIONS ON CASE SENSITIVITY

34. Not applicable.

PART VII - TABLE OF AUTHORITIES

<u>Authority</u>	<u>Paragraph(s)</u>
<u>Case Law</u>	
1. <i>Abel v. McDonald</i> , [1964] 2 O.R. 256 (C.A.)	21
2. <u><i>Alevizos v. Nirula</i>, 2003 MBCA 148</u>	12, 16, 17, 18, 20
3. <u><i>Bhasin v. Hrynew</i>, 2014 SCC 71</u>	2, 7, 8, 9, 11, 12, 13, 14
4. <u><i>C.R.F. Holdings Ltd. v. Fundy Chemical International Ltd.</i> (1981), 33 B.C.L.R. 291 (C.A.)</u>	19
5. <u><i>Freeman v. Perlman</i>, 1999 BCCA 40</u>	16
6. <u><i>General Teamsters, Local Union No. 362 v. Consolidated Fastfrate Inc.</i>, 2008 ABQB 230</u>	25
7. <i>Gronau v. Schlamp Investments Ltd.</i> (1974), 52 D.L.R. (3d) 631 (M.B. Q.B.)	21
8. <u><i>H. (V.A.) v. Lynch</i>, 2008 ABQB 448</u>	23
9. <i>Hepting v. Schaaf</i> , [1964] S.C.R. 100	21
10. <u><i>K.R.M. Construction Ltd. v. British Columbia Railway Company</i> (1982), 40 B.C.L.R. 1 (C.A.)</u>	29
11. <u><i>Kerr v. Danier Leather</i>, 2007 SCC 44</u>	28
12. <u><i>MacLeod v. Ruck</i> (1985), 3 B.C.L.R. (2d) 35 (C.A.)</u>	19
13. <u><i>Outaouais Synergest Inc. v. Lang Michener LLP</i>, 2013 ONCA 526</u>	12
14. <i>Panzer v. Zeifman</i> (1978), 20 O.R. (2d) 502 (C.A.)	19
15. <u><i>Performance Industries Ltd. v. Sylvan Lake Golf & Tennis Club Ltd.</i>, 2002 SCC 19</u>	30
16. <u><i>Pioneer Corp. v. Godfrey</i>, 2019 SCC 42</u>	23
17. <i>Rainbow Industrial Caterers Ltd. v. Canadian National Railway Company</i> (1988), 30 B.C.L.R. (2d) 273 (C.A.)	28

	<u>Authority</u>	<u>Paragraph(s)</u>
18.	<u>Ryan v. Moore, 2005 SCC 38</u>	12
19.	<u>Sidhu Estate v. Bains (1996), 25 B.C.L.R. (3d) 41 (C.A.)</u>	12, 22
20.	<u>Styles v. Alberta Investment Management Corporation, 2017 ABCA 1</u>	11
21.	<u>Toronto Dominion Bank v. Leigh Instruments Ltd. (Trustee of) (1998), 40 B.L.R. (2d) 1 (Ont. Ct. J. (Gen. Div.))</u>	28
22.	<u>Voyager Petroleums Ltd. v. Vanguard Petroleums Ltd. (1982), 17 Alta. L.R. (2d) 212 (Q.B.)</u>	26
23.	<u>Zeppa v. Woodbridge Heating & Air-Conditioning Ltd., 2019 ONCA 47</u>	23