# Insurers to advise policyholders of Limitations Act deadlines in Alberta

**April 25, 2022**

The Alberta Court of Appeal (ABCA) recently dismissed an appeal in *Statt v. SGI Insurance Services Ltd.*, 2021 ABCA 268 [*Statt*], regarding the extension of a limitation period due to the insurer's failure to provide adequate notice to the policyholder of the applicable limitation period, as set out at section 526(1) of the *Insurance Act*, RSA 2000, c. I-3 (the Act).

The decision in *Statt* stresses that an insurer must provide detailed notice to their policyholders that is written in unambiguous language, or risk an extension of the applicable limitation period pursuant to section 5.3 of the *Fair Practices Regulation*, AR 128/2001 (the Regulation).

## Background

James and Juliette Statt (the Insureds) were the owners of a residential rental property that was destroyed by a fire on November 12, 2014. The Insureds submitted a claim to their insurer, SGI Insurance Services Ltd. (SGI), on November 13, 2014, for coverage of their loss. An adjuster for SGI provided a letter to the Insureds containing a blank Proof of Loss form, which advised "[i]n accordance with the *Alberta Insurance Act*, we are enclosing a blank Proof of Loss form for your record, and must advise you of the two year limitation date applicable to your claim".

On December 22, 2017, the Insureds brought an originating application for summary judgment seeking compensation for their losses and an extension of the limitation period, pursuant to section 5.3 of the Regulation. The Master found that SGI had not complied with its obligations, granted the extension and awarded damages of $127,241.00 for the repairs to the property, as well as additional costs for lost rental income, utility costs, and the amounts determined by the umpire proceedings. The Chambers Judge largely upheld this award and SGI appealed this decision.

## ABCA decision

Section 5.3(2)(a) of the Regulation states that an insurer must give written notice to a policyholder setting out the applicable limitation period "if the claim has not been

satisfactorily settled, within 60 days from the date the claimant notifies the insurer of the claim".

SGI's letter did refer to a limitation period; however, the Court concluded that it was not clear as to *which* limitation period. The Court noted that the referenced limitation period could refer to the limitation period to submit the proof of loss or the limitation period to commence the action. Moreover, the Court noted that the notice did not specify *when* the limitation period was to commence, as it may have commenced at the time of the fire, or at the time of submission of the Proof of Loss form. In summary, the Court dismissed SGI's appeal and concluded that SGI's notice "[…] lacked the quality of being written in plain language in understandable terms."

# Key considerations

We note the following key takeaways from this decision:

- Insurers must inform policyholders in clear and unambiguous language of the applicable two-year limitations period;
- The foregoing notice must also clearly indicate that the applicable limitations period begins running from the date of loss; and
- Although not strictly necessary, we recommend that the notice to policyholders: i) indicate the specific date on which the limitations period will expire; and ii) recommend that the policyholder seek and retain legal counsel.

Reach out to your trusted advisor at BLG, or one of the key contacts listed below, to discuss how this decision may impact your business operations.

By

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