

# Gilbert Hourani

## Partner

T 514.954.3101
F 514.954.1905
Montréal
GHourani@blg.com
LinkedIn

Construction
Insurance Claim Defence
Insurance

Gilbert Hourani provides litigation defence services to Canadian and foreign insurers carrying on business in Canada and in the U.S. With an extensive background in insurance and construction law and civil litigation, his practice focuses on professional liability of general and specialized contractors and engineering firms. This extends to providing clients strategic legal advisory services with respect to risk management and insurance coverage.

With over 30 years of experience, Gilbert represents public and private entities of all sizes, and brings specialized knowledge with respect to insurance defence and risk management for professional and financial indemnity and general line programs underwritten in Canada.

His clients include several Lloyds of London Syndicates holding a Canadian book of business, managing general agencies and Canadian cover holders, and most of the Canadian TPA outfits leading casualty and property programs in Canada for Underwriters, Société mutuelle d'assurance, Groupe Promutuel Fédération des sociétés mutuelles d'assurance générale, HUB International, Arthur J. Gallagher, April Canada, GPL Assurances, RSA, Economical Insurance Group, Allianz and others. Gilbert is also regularly appointed by large insureds in COC claims, notably WSP Canada Inc. and SNC-Lavalin Inc.

Gilbert is often called upon to speak at conferences and actively engages within the industry, particularly as a member of the Barreau du Québec. His ongoing involvement includes roles on various committees such as the one for continuing education, and as chair of the annual insurance law seminar.

## Experience

- **Insurance Coverage and Defense**
  - Large complex environmental pollution first party $55 million claim involving coverage denial under the absolute exclusion clauses. The owner of the industrial aluminium smelters claimed over 45 years of contamination costs, clean up and future remedy costs.
  - Ecoli bacteria outbreak found in romaine lettuce produced in U.S. for Canada. Largest producer in Canada (Québec) was denied coverage on a $3 million product recall claim. Insurer settled after evidence on contamination proven and rebuttal coverage arguments raised by insured manufacturer/producer.
  - Defending a manufacturer of highly specialised diesel rotary compressors and cooling systems for IBM data centers; product liability raised as flawed engineering and manufacturing found after building delivery. Defending the manufacturer against the design engineers and the project managers.
  - Class action suit against a Québec Church Association for the beating with the stick back in late 1980s. 30 year timeline of alleged abuse. Denial of Coverage raised by CGL insurer for intentional fault exclusion. Wellington motion filed against same to enforce duty to defend and to indemnify.
  - Acting for a municipal public housing corporation suing 30 defendants notably design architects, design engineers, general contractors, mid-level contractors, manufacturers, and at least 15 sub-trades in what is known as the failed rebuilding/regeneration attempt of more then 3000 Inuit homes in Northern Québec.
  - Defense against a claim following a fire in an apartment building on the argument that that the policy was voided *ab initio* after a mechanical workshop had been found in the building, revealing an undeclared commercial activity. Proving the knowledge of the risk by the insured was difficult as he was not a resident of the building and claimed to be unaware of the activity of one of the tenants.
  - Policy voided *ab initio* because of the insured's links to criminal activities and organized crime.
  - Application to compel the insurer to provide a defense (Wellington) — Denial of the application because of the absence of "material damage" and "occurrence", as defined in CGL's insurance policy.
  - Builder's risk insurance in construction matters — Case having required a three-day hearing on the foreseeability of damages. The Court applied the exclusion clause for faulty workmanship.
  - Arson in a grocery store causing $1.4 million in damages — The Court ruled that a serious, precise and concordant presumption led to the conclusion that the insured was involved in the arson. The evidence highlighted several technical and expert elements on the alarm system, surveillance cameras and the substantial quantity of fire accelerants, as well as the unique occasion (motive) and financial gain in collecting an insurance indemnity.
  - Fraudulent  Insurance claims — Numerous fraud insurance cases such as simulated accidents and thefts and exaggerated claims.
- **Professional Liability**
  - Represented an engineer with respect to a claim made by our client's co-defendant for contribution of $1.9 million. The claim was denied for lack of causation and absence of fault: the co-defendant did not have legal standing to sue another professional having worked on the project since there was no legal relationship between the parties.
  - Alleged error in lot description in a condominium development project. The plaintiff alleged that the notary had failed to use reasonable care in performing his task, thereby causing the promoter to lose a business opportunity.

- *Dessercom inc. c. Dubreuil, 2010 QCCS 5383 (CanLII)* — Contestation of document authenticity — A defendant claimed that the notary had failed to properly express the parties' intent when drafting the warranty clause in the contract for sale of a building.
- Alleged undue influence and incapacity of testator. Gilbert proved that these allegations were unfounded: the Court confirmed the validity of the notarial will.
- Summary rejection of a claim because of prescription — The plaintiff was seeking to thwart the prescription by amending his original claim to add a co-defendant and raising the co-defendants' in solidum liability. The Court denied the amendment for cause of prescription.
- **Product liability** — Case raising the duty to inform and resting on expert evidence on the standard of care in the installation of oil production equipment.
- **Subrogation** in condo towers water infiltration due to flawed design and latent defects. 300 co-owners against all COC defendants. Settled after 2 day mediation, 55 parties total. Estimated trial length: 3 months
- **Risk management** on coverage & liability exposure re-assessment in the context of a 1G commercial arbitration dealing with job site change of conditions, overrun costs, LDs, costs of rework, flawed design, etc. to overall assess coverage and assist in monitoring and bringing claim to final closure;
- **Latent Defect 120M COC claim** for a large housing project in Kativik Northern Québec: ±3000 units allegedly affected by construction deficiencies, refurbished for the Québec inuit community in 12 villages located in Kativik, multi-party suit involving ± 30 parties;
- **Host-Liquor, Bar/host programs:** several cases involving arson, fraud, misrepresentation on material facts at policy inception, risk aggravation and *ab inito* nullity of policies.

## Insights & Events

- 5 more insurance industry trends: Product recall, municipal, cargo and business interruption insurance, BLG Perspective, November 2021
- Author, "Business interruption insurance in Canada: Québec dentists denied claims", BLG Article, September 2021
- Co-Author, " Volume 505 - Développements récents en droit des assurances," (French only), Case law review 2019-2021, Barreau du Québec, December 2021
- Author, "Commentaires sur le droit des assurances — Textes législatifs et réglementaires, notamment "L'interrogatoire statutaire : légitime, pertinent et toujours d'actualité"", 2nd edition, LexisNexis Canada inc., Montréal, 2011
- Author, "Les Éditions Yvon Blais Inc. in Développements récents en droit des assurances for the Québec Bar Annual Convention on Insurance Law," 2003
- Author, conference proceedings from the Québec Bar Association's Insurance Law annual conference, published periodically sine 2003 in "Développements récents en droit des assurances", Les Éditions Yvon Blais inc.

## Beyond Our Walls

### Professional Involvement

- McGill Mock Trials Trainer and Judge, McGill University Faculty of Law, 2023-2025
- Academic Associate, Insurance Law course, McGill University Faculty of Law, Fall Term 2020
- Continuing Education Committee, Barreau du Québec

- Annual Insurance Law Conference, Barreau du Québec
- Legal Advisor in Canada for the London Market Association Canadian Sub-group (LMA - BASCG)

### Community Involvement

- Member, Fondation Centre de cancérologie Charles-Bruneau at the Centre hospitalier universitaire Sainte-Justine
- Member, Board of Directors, Collège Beaubois, elementary and secondary sectors

## Awards & Recognition

- Recognized in the 2027 edition (and since 2013) of *The Best Lawyers in Canada* (Insurance Law)
- Recognized in the 2027 edition of *Chambers Canada* (Insurance: Disputes Resolution (Nationwide))
- Recognized in the 2026 edition (and since 2023) of *Benchmark Litigation Canada* as a Litigation Star (Insurance)
- Recognized in the 2026 edition (and since 2021) of *The Canadian Legal Lexpert Directory* (Litigation - Commercial Insurance) and in the 2025 edition and since 2024 (Litigation - Product Liability).
- Recognized in the 2025 edition (and since 2022) of *Lexpert Special Edition: Litigation*.
- Recognized as a 2023 *Thomson Reuters* Stand-out Lawyer
- Winner at the Client Choice Awards 2019 and recognized for exceptional service and prowess in the Insurance category in Québec
- Laureate of the *Chambre de commerce et d'industrie Canada-Liban* 2019 annual gala in the Professional Services category

## Bar Admission & Education

- Québec, 1994

- LLB, Université de Montréal
- Specialized Graduate Diploma in Commercial Law (DESS), Université de Montréal
- Private International Law, student program, The Hague Academy of International Law

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