

# Misrepresentation Must Be Material And Not Based On Mere Speculation

May 24, 2017

## Summary

This case involved an insurance claim that was denied based on an alleged misrepresentation in an application for insurance coverage related to the Uniform Conditions of Carriage and the existence of a "standard" Bill of Lading.

## The Application

C.H. Robinson Worldwide Inc. ("Robinson") retained KLM Carrier ("KLM") to transport food products by truck from Ajax to Calgary. The shipment was lost after a collision. Robinson claimed against KLM's insurer, Northbridge Commercial Insurance Corporation ("Northbridge") pursuant to the insurance contract between Robinson and KLM. Under the insurance contract KLM was required to maintain insurance coverage and was liable for the full value of any shipments lost or destroyed. Northbridge ultimately refused to pay the claim, arguing that KLM's policy was void for misrepresentation.

At the hearing of an application brought by Robinson, the Judge held that KLM's insurance policy was void because KLM made a material misrepresentation to Northbridge. KLM answered "No" to a survey question on its policy renewal asking whether KLM had any contracts with shippers that stipulated limits of liability that were higher than on the applicant's standard Bill of Lading (the "Question"). The application Judge held that the answer to the Question was a material misrepresentation because the contract between Robinson and KLM provided liability for the full value of the shipment lost, and this exceeded the limited liability under the Uniform Conditions of Carriage pursuant to the Carriage of Goods, O. Reg. 643/05 ("Uniform Conditions of Carriage") regulation under the Highway Traffic Act, R.S.O. 1990, c. H.8, which would have otherwise governed because KLM did not have a standard Bill of Lading. The application Judge concluded that the misrepresentation by KLM was material because it likely reduced the premium KLM paid for coverage.

## The Appeal

The Court of Appeal held that the Uniform Conditions of Carriage were irrelevant in deciding whether KLM made a misrepresentation. The Question focused not on the Uniform Conditions of Carriage, but instead on KLM's standard Bill of Lading, if one existed. Northbridge drafted the survey questions for the policy renewal and therefore had to accept the consequences of not referencing the Uniform Conditions in Carriage in its survey. A standard Bill of Lading was not produced and therefore, Northbridge could not prove a misrepresentation.

In the absence of the standard Bill of Lading, Northbridge could not satisfy the court that KLM's answer to the Question constituted a misrepresentation. Robinson's appeal was therefore allowed.

By

[Robin Squires, Meagan Patry](#)

Expertise

[Insurance Claim Defence](#)

---

## **BLG | Canada's Law Firm**

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

## **BLG Offices**

### **Calgary**

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3  
T 403.232.9500  
F 403.266.1395

### **Ottawa**

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9  
T 613.237.5160  
F 613.230.8842

### **Vancouver**

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2  
T 604.687.5744  
F 604.687.1415

### **Montréal**

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4  
T 514.954.2555  
F 514.879.9015

### **Toronto**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3  
T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription

preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.