

Index

Absurdity	167	paramount clauses	236
Adhesion, contracts of		specific vs. general clauses	239
contra proferentem rule	128, 143	Consistent expression	195
legislated language and,	137	Consistent interpretation	281
rules of interpretation	128, 143, 155, 159	Context of words	116
application	132, 140	words used elsewhere in policy	118, 196
modification	141	Contra proferentem rule	143
Agents	2	ambiguity and,	145
Associated words rule	219	application to various documents	154
Average person standard	109	complexity and,	149
Binders of insurance	7	drafter vs. insurer	144
Brokers	2	reasonability and,	147
bargaining power and,	134	Coverage clauses	155
Business custom doctrine	230	broad vs. narrow interpretation	155
Business efficacy doctrine	231	broad vs. narrow interpretation - of exclusions	157
Business records rule	58	broad vs. narrow interpretation - sophisticated policy holders and,	157
Commercially sensible result	163	Declarations	13
Conditions	33	deductibles	20
breach	35	description of insured business	16
breach - relief from forfeiture	36	description of risk	17
claims and,	34	identity of the intermediary	23
existence of coverage	33	identity of the named insured	16
other insurance	34	name and address	13
termination of coverage	33	policy forms	18
unjust or unreasonable conditions	36	policy limits	19
waiver and estoppel	35	policy number	14
Conflicting terms	235	policy period	15
boilerplate terms	237		
endorsements and,	240		

premium	19	as evidence of coverage	
“means” and “includes”	29	existence	97
Definitions		as evidence of coverage level	95
absence of,	31	standard of proof	63
dictionary	120	subsequent conduct evidence	91
inconsistent use of,	32	technical words	93
Dictionary definitions	120	trade usage	93
Direct writing	6	Exclusions	25
Elliptical construction	266	classes	26
Endorsements	41	exceptions	28
Errors	249	Failure to read policy, effect of	110
exclusions and,	257	Form and Structure	13
formatting	253, 258	Grammar and usage rules	269
missing words	264	Implied exclusion rule	221
punctuation	255, 260	Implied terms	227
rectification	249	business custom doctrine	230
Estoppel – breach of conditions	35	business efficacy doctrine	231
Evidence	55	classes of contracts and,	232
admissibility	65	statutory limitations and,	228
business records rule	58	Insurance contracts	
of expectations	179	conditions	33
of intent	66, 108	creation	1
of nullification	175	binders	7
onus of proof	55	rectification	9
proving claim is covered	60	with an intermediary	2
parol evidence	65	with the Insurer directly	6
exceptions to inadmissibility	69	declarations	13
ambiguity	69	definitions	29
drafting history	79	endorsements	41
factual matrix evidence	75	exclusions	25
premium	95	form	13
		policy wording	1, 43

INDEX		287
policy, vs. contract	1	brokers and, 134
schedule of forms and endorsements	44	contra proferentem rule 128
Insuring agreements	24	equality of bargaining power 134
Intent	99	Nullification of coverage 169
at time of formation	105	evidence of, 175
average person standard	109	in the absence of ambiguity 173
evidence of	108	Onus of proof 55
failure to read policy, effect of	110	Ordinary meaning of words 114
objective intent of the parties vs. creating a new bargain	99	Paramount clauses 236
objective vs. subjective	106	Policy wording 43
Intermediaries	4	sources 41
agents	2	Premiums
brokers	2	as evidence of coverage existence 97
identity of,	23	as evidence of coverage level 95
procedure	4	Principles of insurance law 123
Interpretive tools	101	Reading techniques 47
coverage and,	101	Reasonable expectations 176
Limited class rule	212	evidence of 179
common characteristics	213	Rectification 9, 249
context and,	218	mutual mistake 10
general word	215	unilateral mistake 10
insufficiencies	214	Redundancy 204
Lost insurance policies	55	“belt and suspenders” drafting 209
Managing general agents	5	Relief from forfeiture 36
Manuscript policies	130	“respect to the loss” 38
application of adhesion rules	132	clean hands 39
Missing endorsements	263	imperfect compliance 37
Missing words	264	non-compliance. 37
reading in	264	prejudice to the insurer 39
Negotiating power	127	Repugnancy 243
		resolution of repugnant clauses 243

severance	244	Standard of proof	63
Schedule of Forms and Endorsements	44	Tautology	204
Solicitor-client privilege	50	Technical words	93
Standard form policies	128	Trade usage	93
		Warranties	33