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

INDEX

premium	19	as evide
"means" and "includes"	29	existan
Definitions		as evide
absence of,	31	standard of
dictionary	120	subsequent
inconsistent use of,	32	technical w
Dictionary definitions	120	trade usage
Direct writing	6	Exclusions
Elliptical construction	266	classes
Endorsements	41	exceptions
Errors	249	Failure to read
exclusions and,	257	Form and Str
formatting 25.	3, 258	Grammar and
missing words	264	Implied exclus
punctuation 25:	5, 260	Implied terms
rectification	249	business cu
Estoppel – breach of conditions	35	business eff
Evidence	55	classes of c
admissibility	65	statutory li
business records rule	58	Insurance con
of expectations	179	conditions
-	6, 108	creation
of nullification	175	binders
onus of proof	55	rectificat
proving claim is covered	60	with an
parol evidence	65	with the
exceptions to inadmissibility		declaration
ambiguity	69	definitions
drafting history	79	endorsemen
factual matrix evidence	75	exclusions
premium	95	form
Promum	))	policy word

as evidence of coverage	
existance	97
as evidence of coverage level	95
standard of proof	63
subsequent conduct evidence	91
technical words	93
trade usage	93
Exclusions	25
classes	26
exceptions	28
Failure to read policy, effect of	110
Form and Structure	13
Grammar and usage rules	269
Implied exclusion rule	221
Implied terms	227
business custom doctrine	230
business efficacy doctrine	231
classes of contracts and,	232
statutory limitations and,	228
Insurance contracts	
conditions	33
creation	1
binders	7
rectification	9
with an intermediary	2
with the Insurer directly	6
declarations	13
definitions	29
endorsements	41
exclusions	25
form	13
policy wording	1, 43

286

## INDEX

policy, vs. contract	1	
schedule of forms and endorsements	44	
Insuring agreements	24	
Intent	99	
at time of formation	105	
average person standard	109	
evidence of	108	
failure to read policy, effect of	110	
objective intent of the parties vs. creating a new bargain	99	]
objective vs. subjective	106	
Intermediaries	4	
agents	2	
brokers	2	
identity of,	23	
procedure	4	
Interpretive tools	101	
coverage and,	101	
Limited class rule	212	
common characteristics	213	
context and,	218	
general word	215	
insufficiencies	214	
Lost insurance policies	55	
Managing general agents	5	
Manuscript policies	130	
application of adhesion rules	132	
Missing endorsements	263	
Missing words	264	
reading in	264	
Negotiating power	127	

brokers and,	134
contra proferentem rule	128
equality of bargaining power	134
Nullification of coverage	169
evidence of,	175
in the absence of ambiguity	173
Onus of proof	55
Ordinary meaning of words	114
Paramount clauses	236
Policy wording	43
sources	41
Premiums	
as evidence of coverage existar	nce 97
as evidence of coverage level	95
Principles of insurance law	123
Reading techniques	47
Reasonable expectations	176
evidence of	179
Rectification	9, 249
mutual mistake	10
unilateral mistake	10
Redundancy	204
"belt and suspenders" drafting	209
Relief from forfeiture	36
"respect to the loss"	38
clean hands	39
imperfect compliance	37
non-compliance.	37
prejudice to the insurer	39
Repugnancy	243
resolution of repugnant clause	s 243

287

## INDEX

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

288