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| GUIDE TO BUILDERS' LIENS IN BRITISH COLUMBIA David A. Coulson, B.Com., LL.B. Dirk Laudan, B.A., LL.B. Release No. 2, April 2026 |
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This publication features a comprehensive analysis of builders' liens law and practice in British Columbia. It is compact, practical and designed for everyday use.

This release also features updates to Appendix PS—Procedural Summaries I—Builders' Lien Proceedings in British Columbia – Summary of Procedure.

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Highlights:

- **Legislation—Construction Payment Act**—In *Kingdom Langley Project Limited Partnership v. WQC Mechanical Ltd.*, 2025 CarswellBC 1517, 2025 BCCA 169, 2 B.C.L.R. (7th) 1, 2025 A.C.W.S. 2581 (B.C. C.A.), the Chief Justice of British Columbia’s Court of Appeal granted a request by Kingdom for a five-justice panel to hear the appeal in order to enable the Court to reconsider Shimco. The Court of Appeal was not satisfied that the decision was wrong or should otherwise be overruled. On December 3, 2025, *Construction Payment Act*, SBC 2025, c. 24 received royal assent. The Act includes amendment to the *Builders Lien Act* abolishing *Shimco* liens but the *Construction Payment Act* and the amendments to the *Builders Lien Act*, therein, have not yet been proclaimed in force.
- **Procedural Summaries—Builders Lien Proceedings in British Columbia—Summary of Procedure—Enforcement of Claim—Summary Trial**—Both parties agreed that the issues raised by Hi-Tide were important to the practice, particularly regarding the interpretation of s. 34 of the *Builders Lien Act*. However, Justice Dickson agreed that the order concerning which leave to appeal was sought did not engage those issues. The judge’s comments relating to the interpretation of the *Builders Lien Act* and Hi-Tide’s potential claim against holdbacks were not part of the operative order and could not form the basis for a viable appeal. Appeals are brought from the formal order entered in the court appealed from, not from the reasons for judgment that gave rise to the order. Justice Dickson did not accept that the proposed appeal was significant to the action. Even if Hi-Tide were to succeed on appeal, the matter would likely be remitted back to the trial court with directions as to the suitability of a summary trial application, which was no longer in dispute. Justice Dickson noted that whether the builders lien application should be determined on a summary trial is a discretionary determination. Accordingly, it will be afforded considerable appellate deference. Hi-Tide contended once the judge granted judgment in its favour against Eagle Valley, a declaration of builders lien should have followed as a matter of course. It asserted that the proper course of action was to grant the declaration of lien and order a stay of execution on the declaration until the Project’s completion. Justice Dickson was not persuaded by that submission. Hi-Tide had not demonstrated a “good arguable case of sufficient merit to warrant scrutiny. The judge made a highly discretionary determination in

concluding that the matter was unsuitable for summary trial on the basis that the application was premature and must be dealt with together with lien claims made by other parties. That there may have been another possible course of action does not render the exercise of that discretion erroneous. Justice Dickson explained that historically the factor of whether the appeal will unduly hinder the action has been characterized as the most important of the four. Relevant considerations include concerns as to timing and the sufficiency of the factual matrix, time-sensitive aspects of the litigation, or the possibility of settlement negotiations. Justice Dickson noted that even if Hi-Tide were to succeed on appeal, the most likely result would be that the matter would be remitted back to the trial court for a determination on the merits. In the circumstances, Justice Dickson was inclined to agree that granting leave to appeal could prolong the litigation and add unnecessary cost. Justice Dickson concluded that it was not in the interests of justice to grant leave to appeal: *Hi-Tide Shoring & Foundations (2012) Ltd. v. Chandos Construction Ltd.*, 2025 CarswellBC 3426, 2025 BCCA 396 (B.C. C.A.).