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CASE SUMMARY: THE POLICY WORDING RULES THE DAY, NOT THE INSURED'S IMPRESSION OF COVERAGE

The amount owed by the insured for failing to supply a product pursuant to a contract was not covered under the business interruption coverage.

Insurance law – Business interruption insurance – Exclusions – Rights and duties of insured – Practice – Summary judgments

Cancarb Ltd. v. Ace Ina Insurance, [2019] A.J. No. 449, 2019 ABQB 258, Alberta Court of Queen's Bench, April 12, 2019, Master J.T. Prowse

The insured operated a steam turbine and sold electric power to a municipality. The turbine went out of service and as a result the insured was not paid by the municipality and had to pay the municipality a shortfall amount to compensate the city for having to pay the higher market price for the power. The insurer denied coverage for the \$10 million the insured was required to pay to the municipality for the shortfall amount on the basis that it did not constitute "net sales value of production" as covered by the policy. Although the insured sought an amount of coverage which factored in the maximum shortfall amount which could be due to the municipality, such amounts did not fall within the definition of "net sales value of production". In any event, the shortfall fell within the exclusion for "increase in loss due to damages for breach of contract or noncompletion of orders".

This case was digested by [Dionne H. Liu](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Dionne H. Liu at dliu@harpergrey.com.