

Defining Detection: The Fight Over Coverage In Paramount v. Chubb Insurance



The case of [*Paramount Resources Ltd. v. Chubb Insurance Company of Canada*, 2024 ABCA 266](#) centers on a dispute over insurance coverage following the release of condensate from a LVP pipeline at the Resthaven facility near Grand Cache, Alberta. Paramount Resources Ltd. and ConocoPhillips (BRC) Partnership (“Conoco”) each held a 50% interest in the subject facility.

Paramount sought coverage under its pollution liability insurance policies issued by Chubb Insurance Company of Canada, Lloyd’s Underwriters, and Royal & Sun Alliance Insurance Company of Canada (collectively, the “Insurers”). Chubb’s policy was the primary policy, with Lloyd’s and RSA providing excess coverage. These Policies required that any release of pollutants be “detected by any person” within 720 hours of its commencement to trigger coverage.

The Insurers denied coverage, arguing that the release was not detected within the required time frame. Paramount, however, maintained that detection occurred within the Policies’ window, leading to a dispute over the interpretation of the term “detected”.

Trial Decision

At the summary trial, Paramount presented evidence of data anomalies observed as indications that the release had been detected within the 720-hour period. The trial judge ruled in favor of Paramount, finding that the term “detected” did not necessitate subjective knowledge of the release but could encompass awareness of information suggestive of a leak. The Insurers, however, appealed, arguing that detection required direct, subjective observation of the release, which did not occur until June 9, 2016—well beyond the 720-hour window.

Appeal Decision

The Alberta Court of Appeal overturned the trial judge’s interpretation, finding that the definition of “detected” had been stretched beyond its plain meaning to include data anomalies. The appellate court ruled that detection requires actual, subjective awareness of a release, not just data suggestive of a problem. Since the leak was only visually observed by Conoco personnel on June 9, 2016—well beyond the 720-hour window— the Court concluded that the Policies were not triggered.

Additionally, the Court criticized the trial judge’s reliance on regulatory frameworks like CSA Z662 and Annex E, noting these were not explicitly referenced in the Policies and should not have influenced the interpretation.

The Court further expressed concern about the commercial reasonableness of the trial judge’s interpretation, as expanding “detected” to include data anomalies would expose insurers to risks they hadn’t agreed to cover. This undermined the purpose of the 720-hour clause, which was meant to limit the Insurer’s exposure to prolonged leaks. Moreover, the Court highlighted the risk of indeterminate liability, stating that the trial judge’s “reasonable grounds to believe” standard could extend the detection window indefinitely, creating

unfair exposure to losses beyond the agreed terms.

Key Takeaways

- **Interpretation of Policy Terms:** This case serves as a reminder that insurance policies will be interpreted based on their plain language, and courts are unlikely to expand coverage by introducing extraneous factors, such as regulatory frameworks, unless explicitly referenced in the contract.
- **Detection Requires Subjective Awareness:** Unless explicitly stated otherwise in the policy, the term “detected” in pollution liability policies is likely to be interpreted as requiring actual awareness or direct observation of the event, rather than data merely suggesting that a release may have occurred.
- **Limiting Exposure Through Clear Clauses:** The decision underscores the importance for insurers to draft clear, unambiguous clauses that limit their exposure to losses. Insurers can rely on detection windows and other limiting clauses to mitigate their risk, provided these clauses are clearly written and strictly enforced.
- **Commercial Reasonableness:** Courts are reluctant to interpret insurance policies in ways that lead to commercially unreasonable outcomes. Expanding coverage based on indirect evidence, such as data anomalies, could expose insurers to risks far beyond what they had contemplated when the policy was issued.

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The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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