

RICHARDS BUELL SUTTON LLP

New tribunal to improve access to justice in B.C.

The B.C. insurance industry needs to be aware of new legislation that will be impacting claims related to personal lines and commercial policies, says a veteran and respected lawyer with the Vancouver law firm Richards Buell Sutton.

Alex Eged, a partner with RBS, has more than 22 years of litigation experience, including extensive work in all facets of the insurance industry.



Eged

He says the provisions of Bill 44 - *2012 Civil Resolution Tribunal Act* were passed in the B.C. Legislature in

May 2012 and that the Act is expected to become fully in force in mid to late 2015. The Act establishes the Civil Resolution Tribunal (CRT), which is expected to divert numerous cases from B.C.'s Small Claims Court by creating a voluntary alternate dispute resolution system that will be more user-friendly, cheaper and faster for British Columbians.

"In B.C., the provincial court handles about 90 per cent of the province's total case load. If we can off-load from the provincial court and get it into something like this that people feel a little more comfortable with and not be as intimidated by, maybe this can help us all."

The insurance industry, Eged says, needs to be aware of the CRT because it will be dealing with claims covered by their clients' insurance policies.

"That's in the context of personal lines policies, but also commercial lines, because all kinds of things can happen. At the administrative end, I think insurers need to get on board with the fact that this is going to be here. They may want to participate in it."

Eged has been making presentations to interested parties on the new law. It's a forward-looking piece of legislation that only exists in B.C., although other



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The Civil Resolution Tribunal will divert numerous cases from Small Claims Court.

jurisdictions are considering introducing something similar.

"It's been implemented to make access to justice easier, faster, more economical, more informal and more flexible. It's largely going to be access to justice through online services. You'll file your claim online, you'll serve other parties online, your case manager will be online and your hearings may even be online. What it's designed to handle right now are small claims matters and strata property matters. But there's also room to allow for other areas of dispute to be addressed."

With respect to small claims matters, the legislation allows for claims of debt or damages. Eged says damages include property damage and bodily injury cases. The limit on damages will likely be \$25,000, the same as in Small Claims Court.

The CRT will also address strata property issues which Eged says tend to tie up a lot of court time. Some examples of CRT strata matters will be claims by a strata corporation against an owner or tenant for things such as levies, unauthorized or improper alteration of common or unit owners' property, parking and bylaw violations. Claims by owners or tenants against the strata corporation for a variety of things, including failure to maintain the property or unfair treatment as well as claims against other owners and tenants,

may also be presented to the CRT.

A claimant starts the process by filing an application, probably online, to appear before the tribunal. The claimant identifies the parties involved in the dispute. The CRT or claimant then notifies the other party, requesting his or her consent to participate. But the consent rule might not apply to strata corporations. Amendments are being considered that would prohibit strata corporations from

refusing consent. Once consent is determined, it's off to a resolution proceeding.

The proceeding has two phases – the case management phase and the tribunal hearing phase.

In case management, a case manager will try to organize the parties, either by telephone or through the Internet, and try to get them to come to an early settlement. If an early settlement does not result, the case goes to the tribunal and the case manager helps the parties get ready for the tribunal hearing.

The tribunal hearing is quasi-judicial. Strict rules of evidence and procedure do not apply. The tribunal has broad fact-finding power and may use electronic communication for all or part of the hearing. The tribunal will make a determination that is final and binding and capable of being enforced through the courts. All CRT tribunal rulings, however, will be subject to judicial review, meaning an appeal to the B.C. Supreme Court.

Eged says the CRT is now working with its rules committees to set up the details as to how the proceedings will flow and is working toward establishing the technology that will drive the process. It is anticipated that the entire program will be up and running by the summer or fall of 2015. **IP**