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## CASE SUMMARY: INSURER COULD NOT PROVE MATERIAL MISREPRESENTATION DUE TO LACK OF EVIDENCE CONCERNING “STANDARD” BILL OF LADING

### Insurance law – Policies and insurance contracts – Misrepresentation in obtaining insurance

*C.H. Robinson Worldwide Inc. v. Northbridge Commercial Insurance Corp.*

Appeal from a decision dismissing a judgment creditor’s claim for recovery against the judgment debtor’s insurer was allowed because the insurer failed to meet its evidentiary burden proving the judgment debtor made a misrepresentation in its application for insurance coverage.

[2016] O.J. No. 2505

2016 ONCA 364

Ontario Court of Appeal

May 13, 2016

J.I. Laskin, J.M. Simmons and G. Huscroft JJ.A.

A judgment creditor appealed the dismissal of its application brought pursuant to s. 132 of the *Insurance Act*, R.S.O. 1990 c. I.8 for insurance coverage from the judgment debtor’s insurer. The judgment debtor insured had transported cargo for the appellant, which was destroyed in an accident.

The application judge held that the insured’s insurance policy was void because the insured had made a material misrepresentation to the insurer. The alleged misrepresentation was a negative answer to the question about whether “any contracts with shippers that stipulate limits of liability that are required to supersede the applicant’s standard Bill of Lading”. The application judge held that this answer was a material misrepresentation because the contract between the appellant and the judgment debtor provided for liability for actual loss or damage that was in excess of the limited liability under the Uniform Conditions of Carriage. In allowing the appeal, the Ontario Court of Appeal held that, due to the absence of information regarding what the “standard” Bill of Lading was, the insurer could not prove material misrepresentation.

This case was digested by [Kora V. Paciorek](#) and edited by [David W. Pilley](#) of Harper Grey LLP. If you would like to discuss this case further, please feel free to contact them directly at [kpaciorek@harpergrey.com](mailto:kpaciorek@harpergrey.com) or [dpilley@harpergrey.com](mailto:dpilley@harpergrey.com) or review their biographies at <http://www.harpergrey.com>.