

Member's Quarterly

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Feature

Ready, Set, Release: Interpretation of Releases — *How far can you go?*

Courtroom dramas often neglect one of the most common outcomes in litigation: settlement. Parties bring disputes before the courts or other adjudicative bodies and somewhere along the line, the parties resolve the dispute before arguments are even made. The key components of a settlement generally include a monetary amount paid or other favourable term provided by one party to the other in exchange for the other party signing a release, relieving the paying party of the current claim or complaint and barring the receiving party from bringing any further related claims. In employment law, releases are common practice. But how far can the scope of a release go? The interpretation of a release and its scope was at issue in *Corner Brook (City) v Bailey*, 2021 SCC 29 (CanLII) ("*Corner Brook*").

In *Corner Brook*, the respondent Mary Bailey, struck David Temple, an employee of the City of Corner Brook (the "City"), who was working at the time with her husband's car. Mr. Temple sued Mrs. Bailey for compensation for the injuries he suffered in the accident. Mrs. Bailey and her husband (the "Baileys") sued the City in a separate action for damage to the car and personal injuries, which the parties settled. As a result of the settlement, the Baileys signed a release discontinuing the claim against the City and releasing the City from liability relating to the accident.

Years later, the Baileys brought a third party claim against the City for contribution or indemnity from the City in the action brought against Mrs. Bailey by Mr. Temple. The City brought a summary trial application to have the claim dismissed on the basis that the claim was barred by the release. The Baileys took the position that the claim was not barred by the release because the claim in question was not specifically contemplated by the parties when the release was executed.

The application judge considered the words of the release, as well as what was contemplated by the parties when the release was signed and found that not only did the words of the release bar the claim, but that at the time the release was signed, the Baileys were aware of the action brought against Mrs. Bailey by Mr. Temple and all of the facts underlying the third-party claim. Furthermore, correspondence between counsel for the city and the Baileys regarding the release indicated that the release applied to any and all claims relating to the accident. The application judge found that the release barred the third-party claim and the claim was stayed.

The Baileys appealed to the Court of Appeal of Newfoundland and Labrador. The Court of Appeal determined that the application judge made errors in law. In reviewing the decision of the application judge on a correctness standard, the Court of Appeal found that the broad phrases in the release should be considered against the more specific references to the claim brought by the Baileys against the City for property damage and personal injury. The Court of Appeal further noted that the exchange of correspondence prior to the execution of the release made no reference to the claim brought by Mr. Temple against Mrs. Bailey or any future third party action arising therefrom.



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Ultimately, the Court of Appeal concluded that the words, the context and the exchange of correspondence were all consistent with the release being interpreted as a release of the Baileys' claims in the action brought against the City for property damage and personal injury only and reinstated the third-party notice.

The City appealed to the Supreme Court of Canada where it argued that the release should be interpreted using the normal rules of contractual interpretation. The City argued that the words of the agreement plainly described its subject matter as all claims arising from the accident, and that there is nothing in the factual matrix that could narrow this subject matter without departing from the words of the agreement.

The Baileys argued that regardless of which rule of interpretation applied, the result was the same, that the release foreclosed her right right to make any claim for injuries arising from the accident, but was not intended to prohibit the Baileys from seeking contribution or indemnity from the City for potential responsibility it had for Mr. Temple's injuries.

In coming to its conclusion, the Supreme Court of Canada examined the law governing the interpretation of releases, the standard of review and whether the application judge made a reviewable error in his interpretation of the release.

The Court considered the current approach to contractual interpretation set out in *Sattva Capital Corp. v Creston Moly Corp.*, 2014 SCC 53 (CanLII) ("Sattva"), which states that contracts should be read as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances known to the parties at the time of formation of the contract. *Sattva* also directed adjudicators to look to the surrounding circumstances known to the parties at the time of contract in interpreting the meaning of the words of a contract, confirming the general rule that factual context is considered in interpreting contracts.

The Court determined that the principles of contractual interpretation as set out in *Sattva* are to be applied to releases and there are no special rules of interpretation that apply to releases.

The Court went on to conclude that the Court of Appeal applied the wrong standard of review and rejected the Court of Appeal's findings that the application judge erred such that appellate intervention was warranted. Specifically, the Court found that the application judge considered the surrounding circumstances, and made a finding about what was in the contemplation or mutual intention of both parties, noting that the application judge determined that the parties were specifically contemplating any and all claims relating to the accident, including the Baileys' third-party claim, even if it wasn't specifically contemplated by the parties. Ultimately, the Court determined that the findings of the application judge were owed deference, allowed the appeal, and reinstated the order of applications judge, staying the claim.

While the principles of contractual interpretation apply equally to releases as they do to other types of contracts, careful drafting can ensure that releases cover the desired scope.

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