

## **Negotiations Suspend Limitation Period Under Alberta Insurance Act’s Mandatory Dispute Resolution Process**

Reported Case:	Terroco Industries Limited v. Sovereign General Insurance Co.
Citation:	2007 ABCA 149
At Issue:	Whether an action commenced following the expiration of a limitation period is statute barred where the limitation period expired during the course of an appraisal process between the parties.
The Court:	Alberta Court of Appeal
Judgment Rendered:	April 27, 2007
Factual Summary:	A fire occurred which damaged property of the plaintiff, including a pressure truck. The defendant’s adjuster valued the truck at approximately \$46,400. The plaintiff’s CEO was not satisfied with this appraisal and obtained a second appraisal, which valued the truck at about \$75,600. An umpire was appointed but the umpire was unable to make evaluation within a year following the date of loss. The defendant instructed his adjuster to close the file and the umpire was discharged. The plaintiff initiated action claiming there had been an agreement to arbitrate the loss and sought relief, including the appointment of an umpire.
At Trial:	The trial judge found the statutory conditions and section 514 of the <i>Alberta Insurance Act</i> created a mandatory dispute resolution process and it would be “inconsistent for the limitation period to continue to run against the insured when neither party had full control over the timeliness of the appraisal process”. The one-year limitation period was therefore suspended until the appraisal process was complete.
Appellate Decision:	The Court of Appeal agreed with the trial judge’s decision, finding that the insurer had agreed to make payment of the claim, and the only issue was the amount, which was to be determined by the appraisal process. Appeal dismissed.