
**BCCA COURT OF APPEAL RULES NON-DISCLOSURE NEGATES INFORMATION
TECHNOLOGY E&O COVERAGE**

Reported Case:	Agresso Corp. v. Temple Insurance Co.
Citation:	2007 BCCA 559
At Issue:	Whether the defendant insurers were obliged to defend the plaintiff under an Information Technology E & O policy.
The Court:	British Columbia Court of Appeal
Judgment Rendered:	November 21, 2007
Factual Summary:	The plaintiff designed, installed and maintained computer software systems. In fall 2000 it entered into agreements with a college to supply, install and maintain software. By January 2003 plaintiff was aware the college was not satisfied with the plaintiff's work. The defendants had issued an Information Technology E & O policy in 2002 that expired on February 28, 2003. On seeking renewal, plaintiff failed to disclose there was a potential claim from the college. In June 2003 the college abandoned the contract. In January 2004 plaintiff notified defendants of a potential claim. Within days, the defendants advised the plaintiff there was no coverage as a result of the non-disclosure of the college's potential claim in the application form on renewal.
Disposition By Lower Court:	Coverage was excluded as a result of plaintiff's failure to disclose in its application for second policy material information about potential claim by college.
Appellate Decision:	Appeal dismissed. The plaintiff knew almost from the outset of its contract with the college that there were unresolved issues tantamount to being a "dispute" and containing "allegations of non-performance".