

Insurance

Share:

June 26, 2013

No One Needs to Know: The Pierringer Agreement Settlement Amount Need Not Be Disclosed

CALGARY

400 - 604 1 ST SW
Calgary AB T2P 1M7
PH 403-260-8500

EDMONTON

2000 - 10235 101 ST NW
Edmonton AB T5J 3G1
PH 780-423-3003

YELLOWKNIFE

601 - 4920 52 ST
Yellowknife NT X1A 3T1
PH 867-920-4542

By [Sharon Stefanyk](#) and [Marc Yu](#)

In the recent Supreme Court of Canada decision of *Sable Offshore Energy Inc. v. Ameron International*, 2013 SCC 37, Sable Offshore Energy sued multiple suppliers and contractors who supplied paint and completed surface preparations that were meant to prevent the corrosion of numerous offshore and onshore facilities owned by Sable. A number of defendants negotiated settlements through Pierringer Agreements (also known as “proportionate share settlement agreements”) with Sable. These agreements assured that the settling defendants would not be subject to a contribution claim from the non-settling defendants, as the non-settling defendants would only be accountable for their proportion of liability. The terms of the agreements were provided to the remaining non-settling parties, but the actual settlement amount was not disclosed. The non-settling parties sought disclosure of those settlement amounts.

The trial judge concluded the settlement amounts were covered by settlement privilege, but the Nova Scotia Court of Appeal overturned the decision. The Supreme Court of Canada unanimously allowed the appeal.

Justice Abella described the importance of settlement privilege in litigation proceedings:

[2] The purpose of settlement privilege is to promote settlement. The privilege wraps a protective veil around the efforts parties make to settle their disputes by ensuring that communications made in the course of these negotiations are inadmissible.

...

[12] Settlement privilege promotes settlements. As the weight of the jurisprudence confirms, it is a class privilege. As with other class privileges, while there is a prima facie presumption of inadmissibility, exceptions will be found “when the justice of the case requires it” (*Rush & Tompkins Ltd. v. Greater London Council*, [1988] 3 All E.R. 737 (H.L.), at p. 740).

...

This email is sent on behalf of Field Law's Insurance Group. For more information on our services and contacts, please see our [webpage](#).

[13] Settlement negotiations have long been protected by the common law rule that “without prejudice” communications made in the course of such negotiations are inadmissible.

[Read More](#)

Subscribe or **Unsubscribe** yourself from this mailing list. **Forward** this to a friend.

© 2013 Field LLP. All Rights Reserved.

"Field Law" is a registered trademark of Field LLP.