CA015243

Vancouver Registry

Court of Appeal for British Columbia

ORAL REASONS FOR JUDGMENT:

Before:

The Honourable Madam Justice Southin — December 12, 1995

The Honourable Mr. Justice Cumming

The Honourable Mr. Justice Hollinrake — Vancouver, B.C.

BETWEEN:

WENDEB PROPERTIES INC. and

TIMBERLAKE HOLDINGS LTD.

PLAINTIFFS

(APPELLANTS)

AND:

COASTAL INSURANCE SERVICES LTD.

DEFENDANT

(RESPONDENT)

E.G. Potts — appearing for the Appellant

M.M. Skorah — appearing for the Respondent

1 **SOUTHIN, J.A.:** This is an appeal from the judgment of Mr. Justice D.B. MacKinnon, pronounced the 3rd February 1992, by which he dismissed the claim of the appellants against Coast Insurance Services Ltd., the respondent.

2 The case arose from a conversation which took place between the principals of the appellant and an employee of the respondent concerning the placing or increasing of insurance. The learned trial judge made a finding of fact which was fatal to the appellants' claim and I have not been persuaded that the learned judge in making the finding of fact committed any reversible error. It follows, therefore, as Mr. Potts most correctly and candidly conceded, that the appeal must fail.

3 There is a question of costs. I think it arises because the appellant wished to limit the content of the appeal book and transcript and Mr. Potts tells us that had Mr. Skorah acceded to that wish, about one-third of the papers would not have been required. Therefore, it seems reasonable that the respondent should have costs of this appeal but that there should be set-off against those costs one-third the cost of the appeal book and transcript.

CUMMING, J.A.: I agree.

HOLLINRAKE, J.A.: I agree.

SOUTHIN, J.A.: Order accordingly.

"The Honourable Madam Justice Southin"