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Guaranteed Rebuilding Cost: What Trillium Really Means for Insurers

Authors: Andrew Sain Eric J. Gagnon

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Introduction

Guaranteed Rebuilding Cost ("GRC") coverage sounds like a gold standard – insurance that promises to rebuild a home regardless of price. But in **Emond v Trillium Mutual Insurance Co., 2026 SCC 3** ("*Trillium*"), the Supreme Court of Canada made clear that even the strongest-sounding promises only go so far.

Background

The dispute in *Trillium* arises from a common issue in **insurance law**.

On one hand, GRC endorsements assure policyholders that the insurer will pay repair or replacement costs, even if these exceed the policy limit. Many insureds interpret this as a guarantee that the insurer will fund whatever is necessary to rebuild.

On the other hand, accompanying many GRC endorsements are **compliance cost exclusions** ("CCEs"), which remove coverage for increased costs associated with meeting regulatory requirements such as zoning, demolition, repair, construction and so on.

The problem is that modern rebuilding is inseparable from compliance. A house built decades ago cannot be reconstructed "as it previously stood" because current laws and regulatory regimes do not permit it.

This practical reality collides with consumer expectations and places insurers in the difficult position of explaining why a "guarantee" is not, in fact, unlimited.

The facts in *Trillium*

The Emonds owned a home built in 1968 on the Ottawa River. **Flooding in 2019** destroyed it entirely. Their policy with Trillium Mutual Insurance Co. covered the loss due to a **water**

protection endorsement.

The Emonds also purchased a GRC endorsement, described by the insurer as “top of the line.” It provided indemnity to rebuild at the same location using materials of similar quality and current building techniques, even if the cost exceeded the policy limit. It read:

If the “Declaration Page” shows that the Guaranteed Rebuilding Cost Endorsement applies, the Basis of Claim Payment for the “Dwelling” Building is amended as follows:

> When coverage applies “we” will pay for insured loss or damage if “you” repair or replace the damaged or destroyed “dwelling” building on the same location with materials of similar quality using current building techniques within a reasonable amount of time after the damage.
>
> . . .
>
> In all other respects, the policy provisions and limits of liability remain unchanged.

To rebuild the home, however, the Emonds were required to comply with the strict regulatory regime of the Mississippi Valley Conservation Authority. Numerous upgrades, like changes to elevation and work on the septic system, were legally required. These compliance-driven costs added approximately $700,000 to the project.

Trillium paid the basic rebuilding costs, as well as the $10,000 code-coverage extension specified in the policy for this type of expense. However, it denied the remaining compliance-related costs. In doing so, Trillium relied on a CCE printed not in the GRC endorsement but in its main policy form, which read:

> “We” do not insure against loss or damage resulting from, contributed to or caused directly or indirectly:
>
> . . .
>
> 8. because of increased costs of repair or replacement due to operation of any law regulating the zoning, demolition, repair or construction of buildings and their related services; except as provided under Additional Coverages of Section 1

The Emonds sought a declaration that the GRC endorsement required Trillium to pay the full cost of rebuilding, regardless of the exclusion. A Superior Court judge agreed with the insureds, but the **Ontario Court of Appeal** reversed. The **Supreme Court of Canada** granted leave to resolve the issue.

The decision of the Supreme Court

In a 7-1-1 decision, the Supreme Court dismissed the insureds' appeal and confirmed that the CCE applied in full despite the GRC endorsement.

GRC endorsements

The majority reaffirmed the "generally advisable" order for interpreting standard insurance contracts as provided in *Ledcor Construction Ltd. v Northbridge Indemnity Insurance Co.,* 2016 SCC 37 (*Ledcor*):

1. First, the insured must prove that the loss falls within the initial grant of coverage.
2. Second, the insurer must prove that an exclusion applies.
3. Third, if the insurer proves an exclusion, the onus shifts back to the insured to prove an exception to the exclusion applies.

In doing so, the majority held that GRC endorsements are not "self-contained and standalone contracts disconnected from the insurance policy of which they form part." Rather, GRC endorsements merely amend the basis of a claim, removing the dollar limit on recovery but otherwise leaving unchanged the underlying grant of coverage or exclusions.

Put simply, GRC endorsements expand ***how much*** is payable for covered damage but do not expand ***what*** the insurer has agreed to cover. It modifies the limit but not the scope of coverage.

CCEs

In *Sabean v Portage La Prairie Mutual Insurance Co.*, 2017 SCC 7, the Supreme Court held that insurance policies should be read using ordinary, everyday meaning the way a typical insurance applicant, not an expert, would understand them.

Applying this approach, the majority found that the CCE was clear and unambiguous. In particular:

- The word "guaranteed" in the heading of the GRC endorsement could not overwhelm the CCE's otherwise clear language.
- The term "current building techniques" in the GRC endorsement referred to methods of carrying out construction rather than compliance with legal requirements.

On this interpretation, the majority understood excluded compliance costs to be the difference between the cost of "rebuilding without regard to compliance with *any* law, and rebuilding with regard to the contemporary legal requirements."

The “nullification of coverage” doctrine

Finally, the majority reaffirmed Ontario’s nullification of coverage doctrine, which prevents an insurer from relying on an exclusion if doing so would effectively strip the purchased coverage of any real value. Although the majority found the doctrine did not apply on the facts, it clarified its operation in relation to *Ledcor*.

The majority held that the doctrine is a stand-alone rule, operating independently of the *Ledcor* framework and even where policy wording is unambiguous. In rejecting Trillium’s position, the majority confirmed that the doctrine is not limited to situations of ambiguity or confined to the third *Ledcor* stage. Rather, it exists to ensure insurers cannot sell coverage that is later gutted by unambiguous exclusions “buried elsewhere in the policy.”

Nevertheless, the doctrine cannot be used to redraft clear language merely because the insured faces a large shortfall, as did the Emonds. Only where an exclusion would gut the very essence of the purchased coverage would the doctrine intervene.

The takeaway

Trillium confirms that GRC endorsements only lift the limit on what the insurer will pay for a covered loss. It does not expand coverage to include code-driven or compliance-related costs that the policy otherwise excludes. Unambiguous CCEs still apply, even alongside “guaranteed” rebuilding language.

The Supreme Court also clarified that the nullification of coverage doctrine is narrow. It prevents exclusions from gutting the core of the purchased coverage, but it cannot be used to rewrite unambiguous policy language or rescue an insured from a large but excluded shortfall.

For insurers, the message is clear: Ensure GRC endorsements are understood as adjusting how much is payable, not what is insured, and maintain clear, consistent drafting of CCEs – especially given that modern rebuilding often triggers regulatory upgrades.

Andrew Sain and **Eric Gagnon** are part of the TDS **Advocacy, Litigation and Dispute Resolution** group of lawyers in Manitoba.
