



INTERVIEW WITH GREG SHANTZ

General Counsel of
CertaPro Painters Ltd.



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Dealing with nearly 400 franchisees across the country and in Canada during a global pandemic – especially when it comes to complex insurance issues – is no easy task. But Greg Shantz, general counsel at CertaPro Painters Ltd., has always relished the opportunity to solve problems, educate people on intricate legal issues, and help them achieve their goals.

For Greg, there's no one-size-fits-all approach for insurance. And specific expertise matters. This has never been truer than in our current moment, when so much remains uncertain about insurance regulation in a post-COVID-19 world.

We talked to Greg about all these issues, plus his role at CertaPro, where he sees business owners struggle most with insurance policies, handling claims disputes, and more.

Can you give us a sense of the insurance issues that cross your desk at CertaPro?

Most of the insurance matters I deal with involve our franchisees. For them, having the right insurance in place is incredibly important to protect business assets and workers. But understanding insurance can be difficult – it is like a foreign language. So I spend a lot of time really digging into the details, helping them understand why we require certain policies, why we don't accept the cheapest policies, and why various coverage lines, amounts, and exclusions are important.

And if they get into a dispute with an insurance company who, say, doesn't want to provide coverage, we work to help our franchisees get the expert legal opinion they may need to push back.

Which insurance areas do you find yourself having to

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explain to your franchisees again and again?

One key area – and this was exacerbated by the pandemic, as many of our franchisees saw less money coming in the door – has to do with our requirement that they purchase umbrella policies rather than simply increase limits on existing policy lines. They're understandably looking for nonessential costs they can do away with. So I've got to explain that this is the last thing you'd want to cut, especially now.

I've also been having a lot of conversations with franchisees about cyber insurance. A lot of them know it's important, but don't know the right questions to ask of an insurance company or broker when it comes to what's included and negotiating premiums. We want to make sure they're not paying for a policy where they're not getting what they think they're getting.

One other emerging area is, of course, related to the pandemic and questions on policy exclusions that insurers are coming back with on liability policies related to disease and infection. We try to help them untangle those.

Your franchisees surely work with brokers quite regularly. What are your thoughts on how best to work with a broker?

My biggest caution to people when they're evaluating insurance brokers and policies is to go beyond the bottom-line cost. Ask specific questions about what you're getting and why. Find out if your broker really knows their stuff and understands your business. A good one will know where issues lie and deliver you something specifically tailored to your needs.

What about claims disputes – as we emerge from the pandemic, are you seeing more disputes arise? What should businesses be keeping an eye out for?

Without question, there has been a jump in the number of disputes. The biggest issue I see is when an insurance company wants to disclaim coverage. A lot of them have reservation of rights language in their policies that says, essentially, we'll cover you and defend you in a lawsuit, but may not ultimately pay out and may ask for legal fees. That's becoming more of a standard practice now. Business owners should be aware of reservation of rights and often need someone to guide them through the process of dealing with insurers in this regard.

Moving forward, we're going to see a lot of disputes related to the pandemic. But right now we still don't know how the laws and regulations are going to take shape. Disputes are new or haven't been filed. Damages haven't been realized yet. It may be years before we've got reliable case law in these areas. Not to mention that there's a patchwork of different laws depending on where your business operates.

Because it's so hard for businesses right now to get a feel for these things, you really don't want counsel who just dabbles in this – you need experienced professionals who can give you the most accurate information for your particular business and geography.

When do you work with outside counsel? What makes for a productive outside counsel relationship?

Personally, I engage outside counsel to provide me with some behind-the-scenes advice – to help me craft communications, tell me where my blind spots are, and fill me in on insurance complexities that might be over my

head.

One of the things I look for working with outside counsel – and that Barnes & Thornburg delivered on so well – is understanding the issues that arise when you have multiple attorneys on a project. I like how the Barnes team addresses those matters right from the start and clearly states who's going to handle what, expectations for what would be provided, and a willingness to offer additional services if and when we needed them. You want your outside counsel to feel like a true partner: responsive, supportive, and professional.

You also want someone, on the insurance front, who really focuses in the specific areas – geographic, business type or coverage-wise – impacting a given business owner. Particularly now, with all the uncertainty brought on by the pandemic, you need outside counsel with a nuanced grasp on these rapidly evolving issues.

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