

Impact of Parallel Proceedings on British Columbia Litigation

In *Lloyd's Underwriters v. Cominco Ltd.* (available [here](#)) the British Columbia Court of Appeal refused to stay local proceedings even though parallel proceedings were underway in Washington State. Counsel for the moving party was urging the court to treat the fact of parallel proceedings as virtually conclusive on the issue of *forum non conveniens*. But the court was having none of that, correctly noting that nothing in the leading cases required such a high degree of deference to the forum where litigation was first started. Parallel proceedings were simply one of the factors to be weighed in the stay analysis.

The moving party had argued that it would be violative of comity for the court not to defer to the earlier proceedings in Washington State. The court correctly resisted this argument, noting that even with regard for comity between countries it remained open for jurisdictions to differ as to the most appropriate forum for the litigation and thus to each allow their own local action to proceed.

The decision is also interesting for its treatment of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28. This statute codifies much of what was formerly left to the common law in British Columbia, and it does make some substantive changes. There was thus some question as to whether the new statutory provisions had changed the analysis on an application for a stay of proceedings. The court concluded that “with respect to *forum conveniens*, ... the Act seems intended to codify, rather than effect substantive changes to, the previous law”. The court went on to apply the orthodox principles from *Spiliada* and *Amchem* in a reasonably straightforward manner.