

disclosure

Your quarterly source of personal injury news



SMITIUCH INJURY LAW

Dirty Tricks Insurers Use To Devalue Your Claim

Being injured is bad enough. Dealing with an insurance company can be daunting. Insurance companies are big business and their goal is to maximize profits. By devaluing a claim an insurer can help line their own pocketbooks.

Here are some ways that an insurer will try to minimize your claim.

Obtaining statements

Insurance companies tell us that we should call them as soon as possible to report an accident, which is true. When you report it, keep in mind that the insurer is obtaining valuable information that will help them to figure out how much your claim will cost them. They are documenting what you are saying, which could be interpreted later as minimizing your injuries and medical needs following an accident.

For example, they will ask you shortly after an accident if you were hurt. Unless you have a bone sticking through their skin, most people will say that they are fine. However, many injuries are not identified until days after the accident and you may not know if your injury is permanent until months later.

Discourage you from getting legal representation

Insurers believe that they are treating you fairly. However, there are cases where the insurer has not properly advised someone of their rights and abused their handling of a claim. Insurers know that, once a good legal representative has been retained, they will not be able to get away with this. Insurers will also try to undercut the value of your claim when making an offer to settle.

Go on "fishing expeditions"

Insurers will often ask for medical records going back to an unreasonable time prior to an accident. They will often use the person's pre-accident medical history to blame for the person's medical issues. When an insurer requests information that is not reasonably required, it is referred to as a "fishing expedition".


Get "independent" medical opinions

Insurers will insist that you attend an "insurer's examination" or, in the case of a lawsuit, an inaccurately-named, "independent medical examination" (they are far from "independent"). These are not treating doctors. They are hired by their customer – the insurance company – and are motivated to say what the insurance company wants to hear, such as that your injuries are not as serious, or that your symptoms are blamed on something other than the accident. They want their customer's repeat business. A good lawyer will always try to limit the number of these examinations that you attend and ensure that you have solid medical opinions that support your claim.



Surveillance

Insurance companies have the right to place you under surveillance when you are in a public place. They can "creep" your social media. They will only try to show you the information that they have gathered that minimizes your injuries and will try to downplay the rest of the story, such as how you felt the day after attempting some activities.

These are just some of the dirty tricks insurers use. This is why it is very important that you seek legal advice from a reputable lawyer as soon as possible following an accident. 

She graduated from the New York Law School in 1965. She was the only woman in her graduating class of 126 students

The cases are real. Researchers hand-pick small claims cases from across the country

Her gruff, no-nonsense style of jurisprudence is not an act

Roundup: Does It Cause Cancer?

Roundup is one of the most well known and used herbicides in the world. However, there is a growing concern that the product causes cancer. Several lawsuits are underway against the makers of Roundup, alleging that it causes cancer in humans, and consumers were not properly warned of this risk.

For decades Roundup was marketed as one of the safest chemical mixtures available. It was advertised as safer than table salt. One Roundup spokesman went so far as to claim, during a televised interview, that it was safe enough to drink. However, in 2015, the World Health Organization declared that Roundup's key ingredient, the chemical glyphosate, was "probably carcinogenic" to humans. Also, in February 2019, a scientific study was published in the Mutation Research journal that concluded high exposure to glyphosate-based herbicides, such as Roundup, was linked to a 40% increased risk of Non-Hodgkin's Lymphoma.

In 2018, a California jury awarded Dewayne Johnson \$289.25 million in damages, which was reduced to \$78 million by the State Court of Appeal. Mr. Johnson was a school groundskeeper who applied Roundup to school properties for several years. The jury found that Johnson's

terminal Non-Hodgkin's Lymphoma, a cancer that resulted in tumours all over his skin, was caused by his exposure to Roundup.



In 2019, another California jury awarded husband and wife, Alva and Alberta Pilliod, over \$2 billion in damages, which was then reduced to \$87 million. The couple began using Roundup on their property in the 1970's and were both diagnosed with Non-Hodgkin's Lymphoma, which the jury found was caused by their exposure to Roundup.

To date, the makers of Roundup have denied all allegations of Roundup being carcinogenic. They insist that it targets only plants, not humans or animals, and continue to advertise its safety. As for the spokesman who said Roundup was safe to drink, well he was offered a glass of it on air and his response when asked if he would drink it was "No, I'm not an idiot."

A number of lawsuits have been started in Canada and Smitiuch Injury Law is involved in some of them. If you or a loved one have been exposed to Roundup or have developed Non-Hodgkin's Lymphoma, or another type of cancer, contact our office to discuss your potential case. [S](#)

Profile of Vameesha Patel Student-at-Law



Vameesha Patel recently joined the team at Smitiuch Injury Law as a Student-at-Law for the 2019 - 2020 Articling term.

Vameesha earned her law degree (J.D.) from the University of Windsor. During law school, she volunteered with the University of Windsor's Pro Bono Students' Canada chapter and Community Legal-Aid, and worked at Legal Assistance of Windsor during the summer. Vameesha assisted low-income residents of Windsor with their legal disputes in the areas of Housing Law, Public Benefits Law and applications to the Criminal Injuries Compensation Board. When she wasn't busy providing legal-aid

services or going to class, Vameesha also found the time to participate in her law school's high-school outreach program and graduation formal committee.

Prior to studying law, Vameesha completed a Bachelor of Business Administration with a concentration in Human Resource Management and a minor in Psychology from Simon Fraser University in British Columbia. Outside of the classroom, she was the President of the Human Resources Students' Association and a workshop coordinator at Hunger Actions, a program under Enactus SFU. In her role at Hunger Actions, Vameesha presented her project, a curriculum for assisting low-income mothers with budgeting

and nutrition, at regional and national competitions.

In her spare time, Vameesha enjoys a wide variety of hobbies and interests. She has a taste for adventure, taking part in skydiving, white water rafting, and off-road ATV riding. She also likes to engage in weight-training and traditional Indian dancing. While being a lawyer has been her dream job from a young age, if she had to pick another career, Vameesha would like to try interior decorating or running a bakery. But since she passed both the Barrister and Solicitor Licensing Examinations, it looks like it's the lawyer's life for her. [S](#)

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Parties appearing on the show receive a fee of up to \$850, a daily rate of \$40, airfares and other expenses

5

She is the highest paid TV star in the U.S.A. She earned \$147 million in 2018

6

Since its debut on September 16, 1996, "Judge Judy," has been the No. 1 rated court show, with a daily viewership of ~10 million

7

She is in the Guinness World Records for having the "longest career as a TV judge"

Proposed Changes To Auto Insurance In Ontario

In the spring of 2019 the Ontario government announced that they will be making significant changes to auto insurance. As of the date of this article, few details are known, but below are the major points:

- A Driver Care Card, which will allow an injured person to be provided with a debit-style card that would be loaded with funds to use for rehabilitation and physical therapy
- Restoring the catastrophic injury limits for medical, rehabilitation and attendant care benefits to \$2 million from the current \$1 million
- Measures for fraud prevention
- Give drivers access to more types of coverages and plans, which would include opting for the insurer to use your credit history to determine rates, using certain health providers or car repair services, in exchange for a policy discount
- Related to the above, giving people the choice of "care, not cash" on their policy. While the details of this are still unclear, it could mean that a cheaper policy will not allow you to settle your accident benefits claim for a lump sum if your injuries are not catastrophic
- Electronic proof of insurance
- End rates being based on a person's postal code

At the end of the day, the details of these changes will determine whether or not these changes are good or bad. We encourage you to speak with your broker or agent to determine what your options are and whether or not you will be adequately covered in case you are injured in an accident. [S](#)

Advocacy For Change - The Cost Of A Human Life

In theory, a human life is priceless. But how is value placed on a human life legally? The legal basis for wrongful death claims is found under part 5, section 61(1) of the Family Law Act¹ (the "FLA"). If an individual is killed by the fault or neglect of another, the spouse, children, grandchildren, parents, grandparents, brothers and sisters are entitled to recover. Under section 61(2) of the FLA, available damages include loss of care, guidance and companionship, loss of income, and certain expenses including funeral and travel. These damages seek to place the dependent(s) in the same position financially, had the fatality not occurred.

In *To v. The Toronto Board of Education*,² a 14-year old boy was killed in 1992. The jury assessed damages for loss of care, guidance and companionship suffered by his father and mother at \$100,000.00 per parent and \$50,000.00 to his sister. The Ontario Court of Appeal upheld the award to his father and mother but reduced his sister's award to \$25,000.00. This case is reflective of the current watermark of compensation awarded under the FLA and as of July 2019, these amounts are equal to \$149,563.00 and \$37,391.00, respectively.

More recently however, our firm represented both parents of a 24-year-old woman, who tragically died in a fire. At trial in Milton, the jury awarded \$250,000.00 to each parent for loss of care, guidance and companionship and \$250,000.00 to each parent for mental distress.

Our team at Smiituch Injury Law acknowledges that no amount of money will ever come close to compensating a parent, sibling or child for the loss of a loved one, but we remain committed to bringing these claims forward, challenging these existing watermarks and advocating for justice for families who suffer from the heart-breaking death of their own. [S](#)

¹R.S.O. 1990, c. F.3.

²*To v. Toronto Board of Education*, [2001] O.J. No. 3490 (CanLII).

Smitiuch Injury Law Event Calendar

October 7, 2019 - Ontario Trial Lawyers Association - ABC's of SABs

Chris Jackson was a speaker at the ABC's of SABs (Statutory Accident Benefits) program. He spoke about tips and strategies in advancing an AB claim and noteworthy LAT decisions in advancing an AB claim.

OTLA Head Office, Burlington, ON

November 6 - 8, 2019 - Ontario Brain Injury Association - 2019 Provincial ABI Conference

The theme of this year's conference is Forging New Pathways, Navigating Challenges and Exploring Breakthroughs.

Smitiuch Injury Law is pleased to be a corporate sponsor and exhibitor of this conference.

Sheraton on the Falls Hotel, Niagara Falls, ON

February 1, 2020 - Kids Can Fly - 13th Annual Storybook Breakfast

Children and their parents enjoy breakfast with well-known cartoon characters. Proceeds from this event are used to support early child development and parenting. Smitiuch Injury Law is pleased to be a participant and donor of this event.

New Covenant Christian Fellowship Church, Brantford, ON



For further information or to discuss how we can help you
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