

# disclosure

*Your quarterly source of personal injury news*



**SMITIUCH INJURY LAW**

## Bus Advertisements - Fact or Fiction?

**W**e've all seen them. You pull up behind a TTC bus at a red light and you're met face to face with oversized faces smiling down at you, donned in suits with their arms crossed and a less than classy slogan nearby. That's right; the infamous lawyer advertisement.

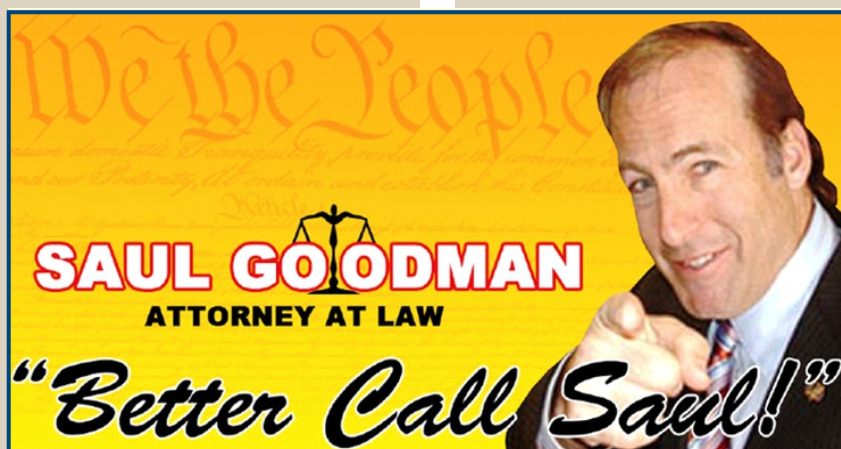
Twenty years ago, it was rare to see any form of legal advertising in Ontario, unless you made a trip to Buffalo or other parts of the United States. It was actually in 1987 when the Law Society of Ontario changed its rules and cleared the way for lawyers to advertise in any medium of their choosing. Although law firms were slow to embrace these rule changes, today we see ads everywhere, including billboards, television and even in washrooms at the Scotiabank Centre in Toronto!

Figuring out the knowledge, skills and expertise of a firm and their lawyers by a bus ad can be extremely difficult. How do you know from these ads if the lawyer or the firm is reputable, honest, and trustworthy? Especially when so many of these ads are undeniably similar. Simply put, you can't, unless you ask the right questions of your potential lawyer.

One of the key questions to ask is the last time that the lawyer did a trial. This is important because insurance companies know those firms that go to trial and those

that don't, and this can dramatically impact the amount of compensation that they offer. You may also wish to ask if the advertised lawyer is going to be the one actually representing you.


Trust between you and your lawyer is of utmost importance. You want to be sure that the lawyer you hire has a proven track record, puts in the hard work and above all, listens to you.



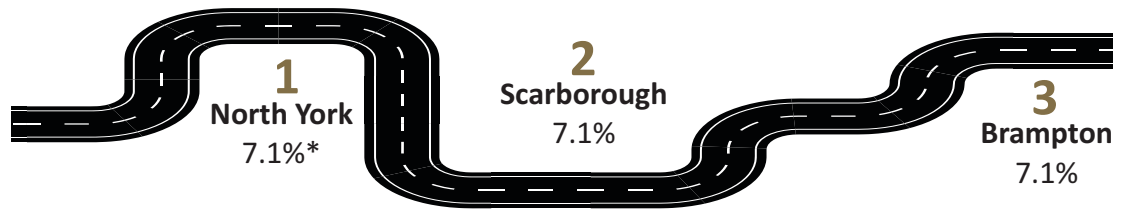
The best way to facilitate that type of relationship is to rely on those you trust the most: your friends and family. Most often, they may be able to recommend a lawyer that they've shared a pleasant relationship with and can give you an honest opinion about their services. Another

strategy is to do your own brief research of the firms or lawyers you are contemplating hiring, such as reading online reviews.

At Smitiuch Injury Law, we pride ourselves in developing relationships with our clients. Our lawyers are willing and available to speak with you directly, to discuss the best strategy for your case and listen to you. We welcome unique cases and pride ourselves in making the legal process as smooth as possible for you.

At the end of the day – don't believe everything you see in a bus ad. 

# 7 Most Dangerous Cities in Ontario to Drive In



\* % of vehicles insured by Allstate, per city, that are involved in a collision resulting in a claim.  
Source: 10<sup>th</sup> Annual Allstate Insurance Company of Canada's 2018 Safe Driving Study.

## In Pursuit of Justice: The Tragic Death of Tess Richey

Imagine the horror that a mother faced when she was informed that her 22-year-old daughter, who was living in Toronto, had gone missing. Now try to imagine, if you even can, the horror of that mother coming across her daughter's dead body in a stairwell only 40 metres from where she was last seen while conducting her own search after police had advised her that they had already searched that area.

That is exactly what happened to Christine Hermeston after her daughter, Tess Richey, was brutally murdered in November 2017.

"I saw Tess lying there in a little fetal position and I started to scream and scream," Christine recalls.

"No matter how hard she may try to forget what she saw, she cannot. The horrific images haunt her thoughts each and every day," said Michael Smitiuch, the lawyer for the Richey Family. "Christine did what a police force of over 5,000 strong could not do. She found her baby girl who had been murdered by a predator who left her in a stairwell." The ensuing mental anguish she now suffers didn't have to happen, Smitiuch says, if the police "simply did their job." Christine and her family have launched a lawsuit against

several parties, including the killer, who was convicted of first-degree murder, the Toronto Police, and two officers who were involved in the search for Tess. In addition to the lawsuit, both officers are facing professional misconduct charges for failing to properly investigate Tess' disappearance.

There is no doubt that a lawsuit cannot bring Tess back, but it can help to uncover why it came to be that a mother had to drive from North Bay to Toronto to find her daughter's lifeless body, four days after she went missing and only 40 metres from where she was last seen.

As Christine explains, "I'm not going to let anyone forget Tess," she said. "I hope that in the future that the same people on the force that let Tess and my family down will not make the same mistake twice with somebody else's little girl."

Christine adds, "It is something that we have to accept Tess is not coming home. There is no point in leaving on the outside light for Tess, though I do every night...I promised her she would never be in the dark again. They left her in the dark for four days down there." [S](#)

## Profile of Brandon Murphy Student-at-Law



Brandon Murphy joined the team at Smitiuch Injury Law in August 2020 as a Student-at-Law for the 2020-2021 Articling term.

Brandon achieved his law degree (J.D.) from Osgoode Hall Law School and successfully passed the bar exam shortly after graduating. During law school, Brandon was extensively involved in volunteer experiences, including Law in Action Within Schools (LAWS) and Pro Bono Students Canada. He also gained valuable legal experience providing community legal services with the

Community & Legal Aid Services Program (CLASP), specifically in the Family Law division. During the summer, Brandon further diversified his legal experience as a research assistant in the area of copyright law.

Prior to studying law, Brandon earned a Bachelor of Science in the Psychology, Neuroscience, and Behaviour Program from McMaster University. During his summers, Brandon worked as a Camp Counsellor at Camp Samac in Oshawa and also worked for a family-owned painting business.

In his spare time, Brandon enjoys getting outside and going for hikes in Provincial and National Parks. His other hobbies and interests include playing soccer, working out, and indulging in his sense of adventure. Brandon also enjoys watching hockey and is an avid Toronto Maple Leafs fan.

Since joining our firm, Brandon has brought his prior legal experience and positive attitude to work every day. We are pleased to welcome him to our team at Smitiuch Injury Law. [S](#)



## Bill 118 - A Race Against the Clock

During the winter season, a trip to the grocery store can quickly lead to hours in the emergency room at a local hospital. Far too often, property owners, retailers, and the snow removal contractors that they hire, cut corners, and don't protect their customers from snow and ice. Sadly, recent changes made by the Ontario Government may prevent innocent injury victims from being able to seek assistance for the damages that they have suffered.

As of January 29, 2021, if you are injured due to snow or ice, you must give written notice to the owner or occupier of the property where you fell or to the contractor that they employ to remove snow or ice, within 60 days after the occurrence of the injury.

The only exceptions to the 60-day notice requirement are if the fall results in the death of the injured person or if there is a reasonable excuse for the lack of notice, such as being in the hospital during this time.

Not only will injured individuals have to identify who owns a property or maintains it within 60 days, but notice must also be done by either personal service or registered mail. This is yet another hurdle that an innocent victim will have to get over.

In short, Bill 118 does nothing to protect injured individuals and will only help negligent property owners and their insurance companies. If you or someone you know has been injured due to snow or ice, it is essential that legal assistance is sought immediately. Smitiuch Injury Law is very experienced in handling these types of claims and we are available to answer any questions that you may have. [\[Link\]](#)

## “You’re on Mute!”

In the face of a global pandemic, the legal system in Ontario has been forced to rapidly catch up with the technological times. Most of these changes are welcome and long overdue. The introduction of videoconferencing into “virtually” all aspects of the practice of law has helped increase access to justice and ensure justice is served in a timely manner.



Videoconferencing has entered the legal system in various forms. The public can retain a lawyer and execute court documents over video. Routine legal activities such as Examinations for Discovery, Mediations, and Pre-Trial Conferences are conducted almost exclusively through videoconferencing platforms such as Zoom, Webex, and Microsoft Teams. Ontario Tribunals offer virtual hearings. All levels of Ontario courts hold Case Conferences, Motions, Non-jury Trials and Appeals by videoconference.

The use of videoconferencing is going to be a part of the practice of law on a permanent basis. On November 30, 2020, the Attorney General of Ontario announced changes to the *Rules of Civil Procedure* (the “Rules”), effective January 1, 2021, to allow and encourage parties to attend court and commission affidavits over video. The Superior Court also expanded the use of online document filing systems. Amongst the updates to the *Rules* is the added discretion of the Court to consider whether parties were willing to accommodate virtual hearings when deciding costs.

Videoconferencing has increased access to justice for Plaintiffs. The use of videoconferencing can decrease the cost of court attendances and allows for greater availability and flexibility in scheduling court proceedings. This is a step in the right direction and with even more resources directed at expanding courthouses and adding more judges our justice system will be further improved.

The practice of law in Ontario is finally catching up with the times by embracing videoconferencing. These changes are welcome and thankfully here to stay. [\[Link\]](#)

## Smitiuch Injury Law Event Calendar

### **March 4, 2021 - Ontario Bar Association - Your First Civil Trial**

Peter Cho will be a virtual presenter at this OBA Professional Development webinar. He will speak about the necessary fundamentals of Opening and Closing Statements to help you prepare for your first civil trial. Webinar

### **March 6, 2021 - Kids Can Fly - 14<sup>th</sup> Annual Storybook Picnic Breakfast**

Breakfast will be delivered by well-known cartoon characters to children's homes. 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.

Brantford, ON

### **March 25, 2021 - Ontario Trial Lawyers Association Speaker Series - Challenges During COVID**

Chris Jackson will be a virtual presenter at OTLA's Speaker Series webinar. He will speak about the Accident Benefits challenges during COVID and the cancellation of Insurer Examinations because of COVID.

Webinar

### **June 18, 2021 - Brain Injury Society of Toronto - Birdies for Brain Injury Golf Tournament**

Smitiuch Injury Law is pleased to be a Silver sponsor of this tournament which is being held in support of people living with the effects of a brain injury in Toronto.

Lionhead Golf & Country Club, Brampton, ON



For further information or to discuss how we can help you  
please contact Michael Smitiuch at:  
416.621.1551 or [mike@sil.lawyer](mailto:mike@sil.lawyer)



**SMITIUCH INJURY LAW**

*"Helping those who need it the most."*<sup>TM</sup>

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