

## **Court Decisions in some of the many Successful Cases handled by Members of our Firm**

***Suche v. The Queen*** ( Ministry of Transport) [1987] Calgary F.C.J. No. 316 [1988] F.C.J. No. 905, 54 D.L.R. (4th) 384 ( Federal Court of Appeal)

- Portion of the Crown Liability Act declared inoperative as contrary to the Canadian Bill of Rights

***Marr v. Marr Estate*** [1989] Calgary Q.B., A.J. No. 1033

- Expanding the damages that a wife could claim against her husband under the Married Womens' Act (now repealed)

***Orr (Next friend of) v. Orr*** [1991] Calgary Q.B., A.J. No. 441

- Third Party Liability Insurance coverage found for claim by infant against his mother when injured by her motor vehicle during a stop in their travels

***Kazemi v. Harms*** [1995] Calgary Q.B., A.J. No. 1295

- Admissibility of public document as prima facie evidence of its contents

***Hu (next friend of) v. Wang*** [1997] Calgary Q.B., A.J. No. 78

- Child of deceased in China may claim for damages arising from loss of opportunity to immigrate to Canada

***K.C. v. College of Physical Therapists of Alberta*** [1998] Calgary C.A., A.J. No. 99 (C.A.)

- Appeal Court has jurisdiction to and should allow extension of time for procedural steps in an appeal

***K.C. v. College of Physical Therapists of Alberta*** [1999] Calgary C.A., A.J. No. 973 (C.A.)

- Almost two dozen convictions set aside, along with liability for more than \$250,000.00 in costs and College ordered to pay substantial costs

***Selkirk v. Lesam Hotels Ltd.*** [2000] Calgary Q.B., A.J. No. 797 (C. A.)

- Where a claimant slips and falls on the municipal sidewalk in front of a business, the claim against the business owner should not be struck summarily as there is potential common law liability.

***Elliot v. Amante*** [2001] Calgary Q.B., A.J. No. 1629

- setting out what must be proven for a successful application for summary trial

***Abbasi v. Portage La Prairie Mutual Insurance Co.*** [2003] Calgary Q.B., A.J. No. 1118

- An adjuster can be sued personally for breach of good faith resulting from his refusal (while representing the insurance company) to pay proper benefits to the insured.

***Palpal-Latoc v. Berstad*** [2004] Calgary C.A., A.J. No. 240 [2005] C.C.S. No. 5526 (C.A.)

- jury's assessment of damages increased on appeal, guideline for general damages

***A.G. v. L.S.*** [2005] Calgary C.A., A.J. No. 868 , [2006] Calgary C.A., A.J. 1308 (C.A.)

- natural father of child, who resides in Calgary, may be ordered to pay maintenance for the child in an action in Calgary, without regard to the child support order made in Kazakhstan, which is not a reciprocating jurisdiction

***E.T. Estate v. Tran*** [2005] A.J. No. 644

- owner of vehicle who lends it to his brother is deemed to consent to its operation by someone the brother allowed to drive (without the owner's knowledge)  
Upheld on Appeal at [2007] Calgary C.A., A.J. 129

***Yin v. Lewin*** [2006] A.J. No. 670 constitutional challenge to the Jury Act (unsuccessful at appeal level)

***Junor v. Co-operators*** [2006] Calgary Q.B., ACQB , Action No. 0601-05298, Nation, J.,

- Insurance policy construed contra proferentem for insured  
The Barrister, Issue 82, December, 2006

***Barry v. Eszczuk*** [2007] Calgary Q.B., A.J. No. 707

- At this application one of our lawyers successfully opposed an application by defence counsel for an order to limit the evidence and arguments the injury victim could use at trial, as to the value of his claim.

***Singh v. Gill*** [2010] Calgary Q.B., A.J. No. 229

- More than 2 years post-accident, Plaintiff was permitted to expand his claims and add a new defendant.

***Henning (for Szackacs) v Smith and Mullen Trucking*** [2014] Calgary Q.B. file 0501-09258, efile CVQ14HENNINGD, May 15, 2014 Hunt-McDonald, J.

- The Government of Alberta is entitled to claim (as an in-trust claim) against the Defendants in an injury claim for the costs incurred and services rendered by Alberta Family Services (after commencement of the action) when taking custody of and providing care to children whose mother was killed. Although no amendment of pleadings was legally required, it was good practice to amend and serve the pleading to cover this in-trust claim and give notice of it to the defendants.

### **Seminar Materials contributed by members of our firm**

#### **Obtaining Documents In The Possession Of Non-Parties**

Seminar - Rediscovering Discoveries  
March 1995

#### **Undeclared Pre-Accident Earnings**

Seminar - Damages: Building and Proving your Case  
October 1998

#### **Preparing for Examinations for Discovery**

Seminar - Rediscovering Discoveries  
March 2005

### **Presentations by Members of our firm**

Canadian Bar Association: Challenges to Legislation; Comparing No Fault Benefits between the Provinces; The Constitutional Challenge to the Minor Injury Legislation

Insurance Think Tank (sponsored by Haskayne School of Business) : Insurance and Compensation Principals

### **Published articles by Members of Our Firm**

#### **Helping Personal Injury Clients With Claims To Their Own Insurers**

The Barrister - Issue 34  
December 1994

#### **Queen's Bench Streamlined Procedure And Case flow Management Changes**

The Barrister - Issue 46  
December 1997

#### **Left Turns and Yellow Lights - Liability Overview**

The Barrister - Issue 54 December 1999  
December 1999

#### **Dealing With Contingency Fee Agreements When The Client Retains A New Lawyer**

The Barrister - Issue 55, March 2000

#### **Who Is Responsible For The Safety Of Our Sidewalks?**

The Barrister - Issue 57  
September 2000

#### **Settlement Using Rules 169 and 170**

The Barrister - Issue 57  
September 2000

**Errors In Testimony**  
The Barrister - Issue 59  
March 2001

**Fatal Accident Claims - The Evolution Continues**  
The Barrister - Issue 60  
June 2001

**Should Insurance Companies Be Able to Tell Us What We Need?**  
The Barrister - Issue 62  
December 2001

**Competing Applications for Summary Trial and Jury Trial**  
The Barrister - Issue 63  
March 2002

**Can A Litigant Pick and Choose Which Portion of Surveillance Records to Disclose?**  
The Barrister - Issue 66  
December 2002

**The Conduct of Judges**  
The Barrister - Issue 67  
March 2003

**Don't get sucked into playing the insurance shell game**  
The Lawyers Weekly Vol. 24, No. 4  
May 28, 2004

**Junk science in our courts**  
The Lawyers Weekly Vol. 24, No. 6  
June 11, 2004

**Tort law - reconciling legislated and common-law duties**  
The Lawyers Weekly Vol. 24, No. 14  
August 20, 2004

**Just Compensation for Suffering**  
The Lawyers Weekly Vol. 24, No. 16  
September 3, 2004

**Who's Responsible for Sidewalk Safety?**  
The Lawyers Weekly Vol. 24, No. 21  
October 8, 2004

**Who Protects Us from Those We Elect?**

The Lawyers Weekly Vol. 24, No. 26  
November 12, 2004

**Truth v. Advocacy**

The Lawyers Weekly Vol. 24, No. 33  
January 14, 2005

**The Jury is Out**

The Barrister - Issue 75  
March 2005

**Commentary: Should Juries Determine Damages in Civil Trials?**

The Lawyers Weekly Vol. 24, No. 48  
April 29, 2005

**Finding Satisfaction as a Lawyer**

The Barrister - Issue 81  
September, 2006

**Abnormal Discs Found After Neck or Back Injury**

The Barrister – Issue 95  
March, 2010