

I WON! Making Sense of a Jury Verdict in the Changing World of Personal Injury Law

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Once a jury renders a verdict in a motor vehicle personal injury action, unless counsel have worked together to agree prior to trial on many of the contentious issues many trial counsel turn their mind to after the battle, the post trial motion before the trial Judge can make or break a jury verdict.



The plaintiff sued for chronic pain resulting from soft tissue injuries although it was noted, he earned a black belt in karate since the accident. Additional plaintiffs claimed under the Family Law Act but those claims were immaterial to the appeal.

On September 19, 2017, the Ontario Court of Appeal made the confusing journey from jury verdict to judgment a lot less mysterious, providing much needed guidance on several key post trial issues in two decisions: *Cobb v. Long* and *El-Khodr v. Lackie*.

While the specifics of the decisions are discussed below three dominant themes run throughout the two decisions heard and released concurrently which considered three grounds of appeal raised by the plaintiff and three grounds of appeal raised by the defence. Those themes confirm the courts are not going to engage in exercises resulting in double recovery, litigants are no longer immune from economic realities in the private market place and lastly, the courts remain committed to giving force to the Government's effort in reducing auto insurance premiums in the province of Ontario by 15%.

Cobb v Long Estate

Cobb v Long Estate involved a motor vehicle accident that occurred on July 8, 2008. The defendant Long, had plead guilty to impaired driving charges arising from the accident which resulted in a one year suspension of his licence and a fine in the amount of \$1,300.00. The plaintiff sued for chronic pain resulting from soft tissue injuries although it was noted, he earned a black belt in karate since the accident. Additional plaintiffs claimed under the *Family Law Act* but those

claims were immaterial to the appeal. The jury trial before Justice Douglas Belch took place over 19 days in 2015. Mr. Long had passed away before trial and the claim continued against his estate.

The issues addressed in the *Cobb v. Long Estate* decision can be summarized in the chart on the next page.

THE PLAINTIFF'S APPEAL


The plaintiff appealed on three issues. They lost on all three grounds.

How to Determine SABS Deductions from Jury Awards

Historically, collateral benefit deductions were interpreted using the analogy of "apples should be deducted from apples and oranges from oranges" (*Bannon v. McNeely* (1998), 38 O.R. (3d) 659 (C.A.)). The Court of Appeal has officially done away with the "apples to apples" analogy because there is no support of the that interpretation in the current legislative wording of the *Insurance Act* (s.267.8(1)).

The plaintiff argued that the jury

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awards may have surreptitiously included money for “bad faith” in one of the other heads of damages and as such, could not be “apples to apples”. Justice Jean McFarland, writing for a unanimous panel which also included Justice David

Doherty and Justice Paul Rouleau, rejected this argument and accepted the defendant’s position that “the attribution of the settlement funds to particular claims is a question of fact on which this court owes deference to the trial judge”

(i.e. the person who sat through 19 days of evidence).

The Court of Appeal also upheld, in increasing the amount of deductions of SABS benefits from the tort awards that the language of the Settlement Disclosure Notice clearly

The issues addressed in the *Cobb v. Long Estate* decision can be summarized below.

Issue	Plaintiff Claimed	Jury Awarded	SABS Received	Trial Judge Ruled	Court of Appeal Ruled
General Damages	150,000	50,000	n/a	20,000 net of deductible	13,460 net of deductible
Past Lost Income	178,136	50,000	29,300	0	Upheld
Future Lost Income	528,000 to 910,000	100,000	152,000 (settlement past & future)	0	Upheld
Past HKHM	21,000	5,000	9,150		5,850
Future HKHM	82,280	10,000		10,000	(deducted another 4,150 for 10k total)
Deductible				30,000	36,540 (5.1 2015 amendment retroactive)
Pre-Judgment Interest				3% (4,000) Judge uses discretion	2,826.60 (Discretion Upheld but retroactive rate applies to trial)
Total Award		220,000		34,000	22,136.60
Punitive damages	3,000,000			0	0
Costs				\$409,098 (partial indemnity based on no consideration of deductible in defendant offer)	each party bear own costs (Judge’s decision in event deductible accounted for)


settled amounts for "all past and future" benefits, making it unclear as to whether the money paid was for past or future benefits or a combination of both. The Release and statutory disclosure notice (SDN) identified heads of damage without addressing compensation arising from bad faith. Furthermore, the Release used all inclusive language in terms of damages "known or unknown at the present time" which supported the conclusion that the trial judge rightfully determined the SDN accurately stated the allocation of the settlement. It was therefore not left to the trial Judge to guess at what was anticipated in the SABs agreement or to seek to allocate the settlement differently.

The Court of Appeal found that the *Insurance Act* does not differentiate between past and future losses – it simply refers to "all"..."payments...that the plaintiff has received...before the trial of the action for statutory accident benefits in respect of the income loss and loss of earning capacity" The statutory text uses the terms "income loss" and "Loss of earning capacity" together as the label for both a single head of damage and a single kind of SAB.

Section 267.8(1) "does not distinguish between amounts that relate to past and to future income loss. It speaks only to amounts received prior to the trial for income loss. Whether those amounts relate to past or future claims is irrelevant for the purpose of deductibility."

For this reason, the Court of Appeal found that, "There can be little doubt on this record that the sum of \$159,300 was received by this plaintiff before the trial for SABs in respect of income loss and that amount should be deducted from totality of the award for past and

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future income loss." The law of damages distinguishes between pre-trial pecuniary loss and post-trial pecuniary loss for primarily two reasons; calculating interest and proof of damages.

The new way to calculate income loss at the end of a trial has been confirmed, "s.267.8(1) of the *Insurance Act* requires deduction of all income replacement SABs, and all payments in settlement of claims for income replacement SABs, that the plaintiff receives before trial from the total of all damages awarded at trial for past and future income loss arising from the same incident".

Should Punitive Damages Be Put to the Jury

The trial Judge refused to put the issue of punitive damages to the jury and the plaintiff appealed based on *McIntyre v. Grigg* (2006) 83 O.R. (3d) 161. The plaintiff contended that case stands for the proposition that a jury can consider punitive damages in any civil action for negligence arising from impaired driving. The Court of Appeal rejected that reading, favouring the more determinative factor: has punishment already been imposed in a separate proceeding for the same misconduct.

The Court of Appeal distinguished *McIntyre* in any event which involved a guilty plea to careless driving (resulting in a \$500 fine) versus the guilty plea to impaired driving (resulting in a one year driving prohibition and \$1,300 fine. The Court of Appeal also affirmed that they would not second guess or undermine criminal or regulatory proceedings which had already met the objectives of retribution, deterrence and denunciation. *McIntyre* stands for the proposition that "Where tortuous acts have already been sanctioned by the imposition of a criminal

The Court of Appeal also affirmed that they would not second guess or undermine criminal or regulatory proceedings which had already met the objectives of retribution, deterrence and denunciation.

sentence, it is inappropriate to award punitive damages in a civil lawsuit. To do so is to punish twice for the same offence."


In this case, there was no evidence to suggest that the defendant's conviction on the offence of impaired driving and criminal sentence of one-year driving prohibition and a fine of \$1,300 was insufficient to meet the objectives of retribution, deterrence and denunciation.

Pre-Judgment Interest

It has been widely acknowledged


among counsel that the change to s.258.3(8.1) of the *Insurance Act* which came into force on January 1, 2015, abolishing the mandatory 5% interest rate for non-pecuniary losses could be procedural and therefore retroactive or substantial law and therefore not retroactive.

In his reasons in this case, the trial Judge used his discretion under s.130 of the *Courts of Justice Act* in applying a pre-judgment interest rate of 3%. While the Court of Appeal upheld the trial judge's decision to use his discretion (and the defence had consented to using that



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rate at the appeal), the Court of Appeal nonetheless confirmed that the change in interest rates is to be applied retroactively.

The Court of Appeal concluded that the amendment to the prejudgment interest rate was intended to have retrospective effect and it applies to all actions that are tried after its commencement. The panel came to this conclusion based on examining the legislative intention and temporal application, the *Courts of Justice Act* which does not create a vested right to a particular rate of prejudgment interest and the presumption of immediate application of procedural legislation.

In looking at the above three factors, the Court of Appeal acknowledged the fluctuation of interest rates over time and the need for rates to reflect those changes in order to “keep pace with economic realities” and “ensure that plaintiffs are not overcompensated nor undercompensated.” The Court of Appeal also considered the legislative history of the *Courts of Justice Act*, determining it “highly relevant” in concluding the legislative intent was to have the interest regime applied retrospectively.

Perhaps, more importantly, the Court of Appeal emphasized the goals enunciated by the government in the introduction of Bill 15 from *Hansard*;

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The Court of Appeal applied the same reasoning in increasing the amount of deductions for the past and future HKHM awards that it applied in determining the Income Replacement Benefits for past and future income loss.

rates are directly linked to claim costs. Reducing costs and uncertainty in the system would help reduce rates for Ontario drivers.

The applicable prejudgment interest rate in this case, should have been .5% for non-pecuniary damages, not 5%, as argued by the plaintiff. However, because the defendant accepted that the trial judge was entitled to exercise his discretion under s.130 of the *Courts of Justice Act* as he did and so the trial decision of interest at 3% on non-

pecuniary damages was upheld.

THE DEFENDANT’S APPEAL

SABs Deduction for HKHM (House Keeping and Home Maintenance)

The Court of Appeal applied the same reasoning in increasing the amount of deductions for the past and future HKHM awards that it applied in determining the Income Replacement Benefits for past and future income loss. The defendant was therefore successful on this



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ground of appeal and the jury award for past and future HKHM was reduced by an additional \$4,150. While the trial Judge found “The defence cannot deduct past benefits from future benefits”, accepting the plaintiff’s apples to apples argument, the Court of Appeal reiterated, “I see no reason to distinguish between the past and future awards – the distinction is a procedural one to meet the requirements of the law. The head of damage is to compensate for loss of the ability to carry out HKHM both in the past and future. The language of the legislation requires a reduction from the damages awarded – all payment received before the trial for SABs in respect of pecuniary loss.”

The practical effect of the reasons above substantially reduced the trial award for this head of damage. The jury awarded the plaintiff \$5,000 for past HKHM and \$10,000 for future HKHM. The plaintiff had received \$9,150 for HKHM under the SDN. The trial judge treated the entire \$9,150 as past HKHM loss and proceeded to apply the \$9,150 deduction to the \$5,000 past loss HKHM award by the jury, reducing the past loss to zero. The \$10,000 future HKHM award was untouched, not subject to any deductions. The Court of Appeal held that the remaining \$4,150 of SABs benefits (\$9,150 - \$5,000 past HKHM) should be deducted from the jury’s \$10,000 future HKHM award, resulting in the amount recoverable for future HKHM being \$5,850, not \$10,000.

Statutory Deductible: \$30,000 v. \$36,540

The Court of Appeal went through the same analysis it applied to retroactivity on prejudgment interest in the Plaintiff’s appeal when addressing the Defendant’s appeal

on the applicability of interest to the statutory deductible. In determining whether the trial judge erred in applying the statutory deductible in force prior to August 1, 2015 (\$30,000) rather than the statutory deductible in force at the time of judgment (\$36,540) the Court of Appeal held that the question turns on the same principles for the interpretation of the legislation that was discussed in relation to the prejudgment interest rate amendment in s. 258.3(8.1) of the *Insurance Act*. In arriving at this conclusion the Court of Appeal looked to some of the temporal language in the current version of s.5.1 of the regulation that implied it should be applied to accidents occurring before its promulgation.

However, the Court of Appeal also considered s. 59 of the *Legislation Act, 2006*, finding that “absent persuasive evidence of a legislative intention to apply the version of a regulation in force at a specific date, s.59 ensures application of the current version of a regulation to which a statutory provision refers”, meaning it is “rolling” or “ambulatory” rather than “static” or “fixed”.

The Court of Appeal also determined the legislature had authorized the retrospective application of the regulation when s.267.5(7)3(i)

was interpreted in a broader context. The Court of Appeal concluded that , “The fact that the dates for calculating the prescribed damage quantum in s.267.5(8.3) of the *Insurance Act*...matches the dates in s. 5.1(1) of the *Court Proceedings Regulation* proves that the legislature must have authorized the executive to amend s.5.1(1) with retrospective application to pending and future proceedings”.


Costs

Prior to trial, the plaintiffs had made an offer for \$500,000 plus costs. The defendant had made the following offer:

1. \$40,000 for damages all in;
2. prejudgment interest on \$40,000 in an amount to be assessed or agreed at 5% per annum from the date of notice of the claim;
3. costs and disbursements to be assessed be agreed on a partial indemnity basis to the first day offer is served;
4. plaintiffs to pay defendant’s costs and disbursements to be agreed or assessed from second day offer served;
5. if plaintiff accepts offer within 30 days, plaintiff not to pay defendant’s costs as set out in #4;
6. offer open until five minutes after commencement of trial.

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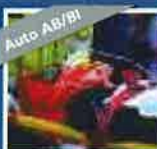
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The defendant appealed the \$409,098.48 award in costs to the plaintiff on the basis that once the statutory deductible was taken into account, its' offer clearly exceeded the judgment sum, and that he costs consequences that flow from r. 49.10(2) of the *Rules of Civil Procedure* should follow – the plaintiffs should be entitled to their partial indemnity costs only to the date of the offer and the defence should have its costs thereafter.

Prior to August 1, 2015 s.267.5(9) of the *Insurance Act* specifically stated that costs shall be made **without regard** to the effect of paragraph 3 of subsection (7) on the amount of damages, if any, awarded for non-pecuniary loss [the statutory deductible]. However, effective August 1, 2015 'without regard' was changed to **"with regard"**. The Court of Appeal concluded that the "amendment applies to the fixing of costs in this case for two reasons: (1) there is no vested right to costs, and (2) costs legislation is "procedural".

The plaintiffs argued that the defendant's offer was not a proper rule 49 offer primarily because of the uncertainty concerning the amounts, which the plaintiff "could never know". The Court of Appeal rejected this, finding that the defendant's offer was a valid rule 49 offer and the defendant beat the trial judgment as revised after the grounds of appeal were determined. Although the Court of Appeal held that in the ordinary course it would follow that the plaintiffs would be entitled only to their partial indemnity costs to the date of the offer and the defendant to its partial indemnity costs thereafter, because the trial Judge ruled that, if his assessment of costs was incorrect [which it was] he would have ordered that each side bear its own costs, that alternative decision was upheld as

being "reasonable". Furthermore, the defendant had taken the position on appeal that it was prepared to live with that determination.

El-Khodr v. Lackie

Mr. El-Khodr was catastrophically injured when the tow truck he was operating was rear ended. A jury heard his case and after four weeks of trial, delivered its verdict on April 29, 2015. The trial judge delivered reasons on the issues of costs, interest, and application of collateral and statutory deductibles in a decision released July 28, 2015.

The jury awarded \$225,000 in General Damages, \$220,434 in Past Loss of Income, \$395,593 in Future Loss of Income, \$1,450,000 for Future Attendant Care Costs, \$424,550 for Future Professional Services (physiotherapy and psycho-

logical therapy), \$133,000 for Future Housekeeping and Home Maintenance and \$82,429 for Future Medication and Assistive Devices. The total award was \$2,931,006.

There were four issues which were addressed on appeal.

1. Prejudgment Interest

The trial Judge, Justice Giovanna Toscano Roccamo, calculated interest on the general damages award at 5%. Because the Court of Appeal found in *Cobb* that the January 1, 2015 amendment to s. 258.3(8.1) of the *Insurance Act* was effective from the day it came into force, the interest rate which should have been applied to the general damage award (pursuant to s. 127 of the *Courts of Justice Act*, was 2.5%, not 5%. The effect of the appeal on this



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point, reduced the total amount recovered by \$44,583.90.

2. Assignment of Future Income Replacement Benefits from SABS Insurer Only to Age 60

The plaintiff was awarded \$395,593 in Future Income Loss. There was no argument that damage award was subject to a deduction for any SABS benefits yet to be paid for Future Income Loss. However, the trial Judge ultimately decided that at age 60 the deductible benefits would stop (if, of course, they had not yet been used). The trial Judge reasoned that there was no way of knowing what the retirement age the jury assumed in coming to their damages award. There was no direction on this point in the jury charge. While the defendants argued it should be the age of 64, the trial Judge ruled this to be a matter of speculation.

The Court of Appeal rejected the age of 60 because the jury, which was presented 6 Future Income Loss scenarios, chose a number for the award of Future Income Loss in the exact amount as the fourth scenario. The Court of Appeal held that because the award matched scenario 4 exactly, it was reasonable to conclude the jury accepted the retirement age in scenario 4 of 64 years old.

The obligation to assign income replacement benefits payable by the SABS insurer (RSA) to the defendant's insurer (Northbridge Commercial Insurance Corporation) was therefore to continue to the plaintiff's 64th birthday.

3. Is the Ontario Drug Benefit Program a "Contingency"

Under O. Reg 201/96, promulgated pursuant to the *Ontario Drug Benefit Act*, R.S.O. 1990, c. O.10, persons

over the age of 65 are eligible for the Ontario Drug Benefit Program ("ODBP") which covers the cost of prescription drugs. During the charge, the jury was instructed to treat ODBP benefits as a contingency since it was unknown as to whether the plan would still be operative in 2028, when the plaintiff turned 65 and because under s.267.8(12)(a)(v) of the *Insurance Act* would not capture the reduction in drug prices for senior citizens that the ODBP provides because the clause only captures "payments to which the plaintiff who recovered damages is entitled in respect of the incident after the trial of the action...under any medical, surgical, dental, hospitalization, rehabilitation or long-term care plan or law".

The Court of Appeal ruled that this was an error and the jury should have been instructed "on the law as it currently exists." In fact, the jury should have been specifically told not to award **any** sum for drug benefits after the plaintiff reached the age of 65. Based on the law of the province, the defendant is only liable for the cost of medication until the plaintiff reaches the age of 65.

Addressing the financial outcome of this error was unfortunately, impossible. The Court of Appeal held that because there was no way of knowing what amount the jury had awarded for medication past the age of 65, no deduction on the tort award for the ODBP could apply.

4. Whether Future SABs Payments for Medication, Assistive Devices and Professional Services Be Assigned

The trial Judge did not allow an assignment of the future medication benefits and future professional services benefits. She cited the reasoning

in *Bannon v. McNeely*(1998), 38 O.R. (3d) 651 (C.A.) finding that "apples should be deducted from apples and oranges from oranges" and that "likelihood" and "probability" of evidence would not be enough to warrant a deduction and as such the onus of proof remained "very strict".

The Court of Appeal applied the same reason with respect to pre-trial benefits in *Cobb* to future benefits in *El-Khodr* finding, "strict qualitative and temporal matching requirements should not be applied to s. 267.8 for two reasons: (a) the policy rationale underlying *Bannon* is not relevant to the current statutory scheme; and (b) *Bannon* may no longer be good law in this province.

In making the above statement about *Bannon*, the Court of Appeal engaged in a lengthy analysis of why *Bannon* was not relevant to the cur-

rent statutory scheme and why it may no longer be good law in Ontario. Without providing the full details of the past legislative schemes which saw "*Cox and Carter*" orders, suffice to say, especially in under the second major change in October 1989, because deductions were made in present day value at the time of trial, the potential for the plaintiff not to be fully compensated was a reality. For that reason, deductions had to be based on the test that the plaintiff's qualification of future benefits must be "shown to be beyond dispute". The Court of Appeal in *El-Khodr* concludes,

...the policy rationale supporting the strict matching requirement in *Bannon* no longer applies given the amendments to the statutory scheme. The concern that the

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court had in *Bannon* regarding the uncertainty of future payment of SABs simply does not arise under the current legislation [in November, 1996, in s.29 of the *Automobile Insurance Rate Stability Act*, 1996, S.O. 1996, c. 21]. Courts are no longer required to calculate the present value of the future benefits to which a plaintiff would be entitled and to deduct that amount from the damages onward. The potential unfairness of this requirement, in my view, was the overriding concern and the rationale that originally drove the strict approach to deductibility under the legislative regime that this court addressed in *Bannon*.

With respect to the law in Ontario, the Court of Appeal noted that *Bannon* was based on the approach of the British Columbia Court of Appeal in *Jang*. However, in *Gurniak v. Nordquist*, 2003 SCC 59, [2003] 2 S.C.R. 652, the majority of the Supreme Court of Canada expressly stated that *Jang* was wrongly decided. *Jang* had required the same “apples to apples” reasoning for deductions, which the Supreme Court rejected.

The Court of Appeal reiterates its position on s.267.8 again, as it did in *Cobb*, stating that there is nothing in the language of the statute to require any further subdivision beyond income loss awards and health care expenses, with everything else being “other pecuniary losses”. The Court states, “the time may have come to reconsider the application of any strict matching requirement between heads of damage and statutory benefits...”

Ultimately, the Court of Appeal ordered that any amounts for future medication and assistive devices payable by RSA Insurance as acci-

dent benefit insurer to the plaintiff be assigned to Northbridge Commercial Insurance Corporation until the amount awarded by the jury (\$82,429) had been received; and that any amounts for future professional services payable by RSA to the plaintiff for psychological, physiotherapy, occupational therapy, massage therapy, kinesiology/personal training, case management services, and travel to medical or other specialist be assigned to Northbridge Commercial Insurance Corporation until the sum of \$424,550 has been received.

Proper Jury Questions

The Court of Appeal recognized the “struggles” trial judges have had in an effort to follow the “strict matching” principle, noting that some judgments even go

beyond the test in *Bannon*. The Court of Appeal cautioned against plaintiff counsel lumping heads of damages to include, for example, benefits not covered by SABs, such as transportation costs to and from doctors visits with other benefits that are covered by the SABs, such as medication costs. The Court of Appeal suggests minimizing the difficulties by presenting claims according to the categories in s.267.8 of the *Insurance Act*; past and future income losses, past and future health care expenses; past and future pecuniary losses that have SABs coverage and past and future pecuniary losses that lack SABs coverage.

CONCLUSION

These decisions have solidified ambiguity on so many pertinent issues to

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motor vehicle claims as described above. While the law of the land in Ontario is clearer than ever since the significant changes in the automobile insurance regime in 2015, the underlying message of the Court of Appeal is a strong judicial alignment with Bill 15 and an overwhelming regard for a reasonable and clear approach to pleading damages and awarding deductions. The clarity and guidance in the decisions should lend itself well to a greater use of pre-trial agreement between counsel as to what deductions will be applied and what the questions to the jury should be. It should also minimize the extent to which lengthy, post-trial motions will be required to determine the net effect of a jury verdict having regard to collateral deductions and costs implications.

THOUGHTS AND REFLECTIONS FOR THE PRACTICE OF PERSONAL INJURY LAW


- The decisions give cause to both sides to ensure they draft adequate pleadings to ensure properly pled damages and defences so that jury questions are tied directly to the framing of the action initially.
- The decisions create further disincentive on plaintiffs to settle out AB claims in advance of tort. Where LAT moves that much faster than tort cases, query what this will do to AB cash outs and maintaining live AB claims for the purposes of assignment.
- The decisions makes the clarity of settlement of AB claims that much more imperative to say nothing of what may often be perceived as an after the fact creative exercise of allocating settlement funds within an SDN.
- The decisions create a modest con-


flict between insured and insurer where a finding of guilt on criminal charge with consequences of significance eliminates potential for bad faith claim in tort.

- The decisions give defendants a better chance of winning arguments on costs based on Rule 49 offers that clearly beat the jury verdict and may encourage plaintiffs to make offers on jury cases more inline with the trend towards the numbers commonly seen in jury awards.
- The decisions necessitate a strong and careful consideration of precisely what the questions are to be put to the jury and if there are a number of heads of damages, all of which now need to be broken down to past and future for the purpose of the collateral deduction exercise. This creates risk that questions may be perceived as too complex for a jury to deal with thereby causing a successful striking of a jury mid trial – defendants may need to balance out the loss of some potential collateral benefit deductions by keeping the jury questions simple vs the greater risk of having the jury struck.



Eric Grossman has worked exclusively in the insurance law area since his call the bar in 1989 – and was a founding partner of Zarek Taylor Grossman Hanrahan LLP. Eric was recognized as a Certified Specialist in Civil Litigation by the Law Society of Upper Canada as well as by Lexpert® in the Lexpert® Canadian Legal Directory as a consistently recommended expert in per-


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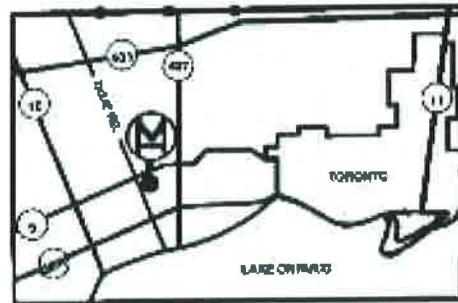
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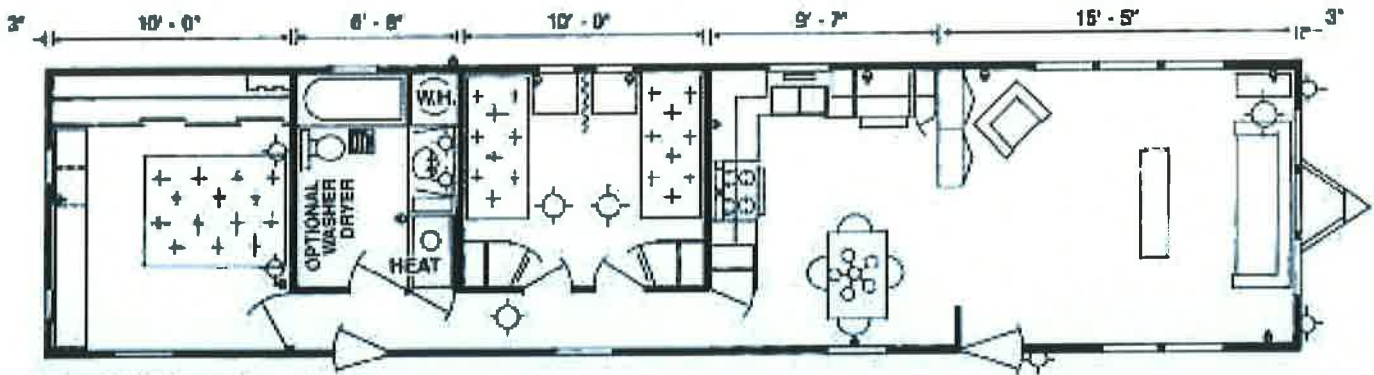
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sonal injury law.

Eric was selected by his peers for inclusion in Best Lawyers in Canada in the areas of Insurance Law and Personal Injury Litigation starting in 2015 and has been named Lawyer of the Year in Personal Injury Litigation in Toronto for 2018 by Best Lawyers in Canada.

Eric acts primarily for insurers in first party claims under Bill 198 and Bill 59, as well as in a number of loss transfer claims and priority disputes. In addition to acting as counsel at mediations and arbitrations, he has represented clients at all levels of court, including the Supreme Court of Canada. He has also been retained as an expert witness in the area of statutory accident benefits on a number of occasions.



Shanti Barclay has appeared before the Social Assistance Review Board, the Immigration and Refugee Board of

Canada, the Human Rights Tribunal of Ontario, Ontario Provincial Court, the Ontario Superior Court of Justice, the Ontario Divisional Court, the Ontario Court of Appeal and the Federal Court of Canada.

Over the last six years, she has focused on building an insurance defence practice, primarily in property and product liability loss including subrogation work. She has represented insurance companies to pursue civil remedies in fraud. Shanti has also defended drivers, homeowners and sports organizations in personal injury cases. Last but not least, Shanti has defended numerous chartered accountants in professional negligence suits.

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