

## **SUMMARY OF HANCOCK V. HOLMQUIST**

Jury verdict in Oshawa on June 12, 2018-17 day trial

The plaintiff was 34 years old when involved in a snowmobile accident on February 28, 2010. He reported to the ambulance paramedics and at the emergency department that he injured his right shoulder, left hip and right knee. The emergency discharge diagnosis was soft tissue injuries.

The plaintiff claimed that as a result of his accident injuries, which he claimed were to his neck, left shoulder, low back, left hip and left knee, he could not continue operating his duct cleaning business which eventually closed down, nor his very active social and physical activities. He claimed that he became dependent on opiate medication which caused multiple side effects, leaving him totally incapacitated. He advanced significant claims for past and future loss of income and future medical services and medication.

He did not see his family physician from the date of the accident until December 7, 2011, when he reported a two-week history of low back pain from heavy lifting. He was prescribed opiate medication that day and on each visit thereafter for chronic low back pain. There was no recording of the accident until at least January 2012. The Statement of Claim was issued on February 16, 2012. By the time of trial, he was on significant if not dangerous amounts of opiate medication and receiving low back injections every six weeks, all of which provided limited relief.

By summons, records were obtained from a nearby medical clinic indicating that the plaintiff had seen doctors on five occasions between August 30, 2010 and August 2011 and his dentist, who he saw on about five locations in August, September and November 2010 for dental pain, for which opiate medication was prescribed. There was no recording in any of these records regarding the accident.

Barry Marta and Jillian Beaulieu handled the trial. Liability for the accident was admitted. The defendants' theme through trial was that the plaintiff suffered minor soft tissue injuries in the accident that resolved within about six months. The low back problem first reported on December 7, 2011 was unrelated to the accident. The opiate dependency was therefore unrelated to the accident.

The members of the jury appear to have agreed as the verdict was rendered after about 1.5 hours of deliberation for general damages only of \$32,000. The verdict for all heads of special damages claims was \$0.

After offset for the deductible, the net recovery was \$0.