

NEWS

▼ LAW

# 'A man who is his own lawyer has a fool for a client'

A judgment released May 10, 2013, following an eight-day Supreme Court of British Columbia personal injury trial, reminds me of the saying: "A man who is his own lawyer has a fool for a client". The decision reads like a train wreck.

Marko Jurisevic was claiming compensation for injuries he sustained in three separate car/bicycle collisions. He had commenced three separate lawsuits, which is entirely appropriate, and they were all scheduled to be heard at the same time, which is also a common practice.

The "train wreck" was that the judge, Madam Justice Kloegman, didn't



ACHIEVING JUSTICE

Paul Hergott

get to the part where she would assess the significance of Jurisevic's injuries and losses and require financial compensation. She dismissed Jurisevic's claims in all three lawsuits. In two, she found Jurisevic to be the one at fault, not the motorists he sued. The third was dismissed on Jurisevic's technical failure to properly name the driver he was blaming for causing that collision.

Instead of being compensated for his injuries, Jurisevic is going to be facing a costs bill of tens of thousands of dollars, payable to ICBC.

Self-representation in our court system is a problem, and the saying I quoted at the beginning of this column is rarely applicable. Most people facing the courts without representation do so not because of any foolishness, but because they cannot afford the horrendous expense of hiring a lawyer. That lack of legal representation results in horrendous inefficiencies in our justice system as well as unjust results.

The "fool" label applies in the situation of a lawyer, financially able

to afford legal representation, who represents himself in his own lawsuit. I have not made my comments gender neutral because of course a woman lawyer would not be so foolish.

When reading about the disastrous result of an unrepresented injury victim going up against the full power of the Insurance Corporation of British Columbia, my mind would typically go to the assumption that it could not have been a fair fight, and the result could not have been a fair one.

I am thankful to Madam Justice Kloegman for being so clear in her reasoning, which relieved me of my concern about unfairness. By the

way, I encourage anyone who is shocked or appalled by a media description of a court decision to read the judge's actual reasons for judgment. You will learn something.

The reasons for judgment include a section where the judge assessed Jurisevic's credibility, and found it lacking. It had to do with video surveillance footage which, for honest and forthright victims, always helps prove rather than hurts their claims. Jurisevic was clearly not an honest and forthright victim.

In Madam Justice Kloegman's words: "I found the use of a walker by the plaintiff as he entered the office of Dr.

Pyper for an independent medical examination requested by the defendants to be particularly revealing. The surveillance tape shows him striding from his house to his truck, carrying a walker, lifting it above his head with ease and smoothly swinging it into the truck, jogging across the road back to his house, returning to the truck and climbing into it. Yet when he arrived in the truck at the appointed location, he purported to need it to walk up the path to the doctor's office."

In the end, the "fool" label does apply in this case.

With or without a lawyer, your personal injury case is going to be a train wreck if you are not hon-

est and forthright to all involved. And good luck finding a lawyer willing to take on a claim that has become a train wreck because of your own dishonesty.

Go to the Supreme Court of British Columbia website, choose the button "Judgments" and search using "Jurisevic" and you can access the decision yourself.

*This column is intended to provide general information about injury claims. It is not a substitute for retaining a lawyer to provide legal advice specifically pertaining to your case. Paul Hergott is a lawyer at Hergott Law in West Kelowna.*

▼ MP'S REPORT

## Complaints about senators are coming in loud and clear

With the provincial election now concluded and the respective

campaigns left to reflect and ponder the past thirty or so days I was reminded of the campaign I was in-

involved with when running for Parliament two years ago.

One of the messages

I heard loudly and clearly from a wide variety of citizens was the need to take immediate action on the MP pension plan, which was widely seen as grossly unfair to taxpayers. It was a message I shared in Ottawa as one of the first MPs to publicly call for changes to the MP pen-

sion plan that would make it more respectful to taxpayers.

It was rewarding to have the chance to vote in favour of those changes in the last budget implementation bill which will ensure the MP pension plan moves towards equal contributions and also elimin-



Dan Albas

adians await further clarification from the Supreme Court of Canada on the legal basis by which Senate reform or abolishment can occur, that delay should not be an excuse to engage in actions that are offensive to taxpayers. As I have in the past, I will continue to support changes that increase accountability to taxpayers.

Ottawa is also very busy this week as a result of the government introducing a motion to extend the sitting hours of the House of Commons into the evenings. Some of the bills coming before the House from government this week include continued debate on Bill C-48, the Technical Tax Amendments Act, first debate on Bill C-52, the Fair Rail Freight Service Act, and report stage for Bill C-51, the Safer Witnesses Act. Senate Bill S9, the Nuclear Terrorism Act, will also come before the House for third reading debate. Private members business will include the first debate on Bill C-489, an act to amend the Criminal Code and the Corrections and Conditional Release Act (restrictions on offenders). Business of Supply will also come before the House as will a number of votes.

These are changes Canadians expected and asked for and the government delivered on that request.

It is for this reason that I am particularly disappointed by some recent events that I know a number of citizens are concerned about as well.

In fact, I have heard from an overwhelming number of constituents this past week who are united in sharing their strong opposition to unaccountable Senators who engaged in actions that are unbecoming of public officials and that concern is justified, in my view.

Although the Senate has proven difficult to reform, this is not from the lack of desire from a significant portion of the Canadian public nor from the want of trying by the government.

It comes largely from particular provinces arguing through the courts, that the constitution requires their consent to make much needed changes. While Can-

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