

**NEWS**

▼ MISSION CREEK PARK

**Exhibit revamped at EECO**

A change is in the works for the Healthy By Nature exhibit at the Environmental Education Centre for the Okanagan in Mission Creek Regional Park.

The EECO will be closed March 4 and 5 this

week to allow staff to update the exhibit.

Visitors can look forward to new games and fresh features for the exhibit when the centre re-opens March 6.

And with spring just around the corner, the

centre will also be adjusting its operating hours.

Starting Saturday, March 15, the EECO will be open Tuesday through Friday from 10 a.m. to 6 p.m. and on weekends from 10 a.m. to 5 p.m., say regional officials.

▼ ROAD SAFETY

**Dealing with shared liability**

**F**or most collisions that cross my desk, the driver of one of the vehicles is totally to blame.

It happens all the time, with distracted drivers blowing stop signs, crashing their vehicles into the back of lines of stopped traffic, pulling out directly in front of an oncoming car to make a left turn on a green light, the list goes on and on.

There is absolutely nothing that the innocent driver in those scenarios could have done to avoid the collision.

In some cases, though, there is something that each person could have done to avoid the collision.

In those cases, there must be an assessment of fault.

If fault is assessed equally between you and the other driver, you are entitled to recover 50 per cent of compensation for your injuries and losses.

If the other driver is 75 per cent at fault, you recover 75 per cent.

If you are the most at fault, i.e. the other driver is only 25 per cent at fault, you recover that smaller percentage of compensation for your injuries and losses.

I am going to give you one example of a shared fault scenario that I have encountered a number of times in my practice.



ACHIEVING JUSTICE

**Paul Hergott**

Put yourself in the shoes of a motorist pulling up to a red light, intending to turn right.

If there is no cross traffic, you simply pull up, glance to your left to be sure no one is coming and carry on with your turn. Otherwise, you sit there looking over your left shoulder until there is a break in traffic and away you go.

Did you miss a step there?

Now put yourself in the shoes of the cyclist.

Yes, the rules of the road require you to ride on the street with the cars, but you are uncomfortable sharing the street with cars so you ride on the sidewalk.

Perhaps you are a young person and your mother insists that you ride on the sidewalk.

You are riding on the "wrong" side of the street, i.e. facing traffic, approaching an intersection. You are facing a green light.

You see a car coming from your left.

Even though you are facing a green light, you

stop to activate the pedestrian walk signal.

You see the car slowing down.

As soon as the walk signal is activated, you proceed to ride into the crosswalk.

Did you miss a step there?

The motorist hits the gas to merge into a break in cross traffic just as the cyclist is in front of the car. The cyclist is knocked over and injured.

The missed steps of each participant in this scenario are identified in the reasons for judgment of a judge in the case of Callahan v. Kim.

The missed step as a motorist was failing to look again to the right to ensure pedestrian traffic had not entered the crosswalk while the driver were sitting there, looking over the left shoulder, waiting for that break in cross traffic.

The missed step as a cyclist was failing to catch the eye of the motorist before riding in front of the car.

It would have been incredibly prudent, but not legally necessary, to do the same thing as a dismounted pedestrian. But given that the cyclist was breaking the law by riding into a crosswalk, the judge found the cyclist at fault as well.

The liability split? Quoting from the

judges ruling: "I find Mr. Kim's conduct in failing to observe the plaintiff in the crosswalk and in starting a turn without looking to his right to be far more blameworthy than Mr. Callahan's failure to make eye contact. Taking into account all the circumstances of the case before me, I conclude that liability should be apportioned 85 per cent to Mr. Kim and 15 per cent to Mr. Callahan."

Compensation for Mr. Callahan's injuries was assessed at \$248,284, so he received 85 per cent of that amount, or \$211,041.

One of my reasons for this column is to explain how shared liability works.

The other is to identify a traffic scenario that happens more often than we think so that we can all watch out for it.

How often do you pull up to a corner, look left for a break in traffic and forget to glance to your right before proceeding?

*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.*

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**Brook Bar & Grill**  
**at Michael Brook Golf Club**  
**Opening Saturday March 1st**  
**at 11 am for lunch and dinner**  
*Come and join*  
**Chef JP & Staff at the Brook**  
 We welcome all of our previous  
**customers from Aspen Grove Golf Course**  
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**news**

**Seminars & Events**  
**CHOICES KELOWNA**

(1) **Medicine Intuition** with Brenda Lainof, Certified Medical Intuitive Practitioner. Cost \$5. Register online or call 250-862-4864  
**Wednesday, March 5th, 7:00-8:00pm**

(2) Complimentary Spinal Screenings with Drs. Easterling and Bickert, DCs, Creative Healing Chiropractic.  
**Free Drop in sessions.**  
**Saturday, March 8, 11:00am-1:00pm**

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