Legal aftermath of rear-ender accident case

released at the beginning of April recounts the aftermath of one of the most common of motor vehicle collisions: the rearender.

On Aug. 10, 2011, a young man was stopped at a stop light when some bonehead crashed into the back of his car.

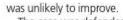
The damage to the young man's car was assessed at about\$14,500. The damage to the young man, referred to as the "plaintiff" in the court decision, was the issue in the trial that spanned almost two weeks.

The plaintiff developed chronic pain and depression. He tried, but failed to return to his work in the hotel maintenance industry and was not working at the time of the trial.

He sought fair financial compensation on the basis that his condition

Achieving Justice

PAUL HERGOTT



The case was defended by the offending driver's insurance company.

One line of defence

was to "blame the victim" for not doing enough to get better.

In legal terms, this is referred to as a "failure to mitigate" his losses.

The law was clearly outlined by the judge who noted the plaintiff's obligation "to take all reasonable measures to reduce his or her loss, including undergoing treatment to alleviate or cure injuries."

The judge also noted that to succeed in this defence, "the defendant must prove that the

plaintiff acted unreasonably and that reasonable conduct would have reduced or eliminated the loss."

The defence argued that while the plaintiff

had undergone some psychological counselling, he had not undergone enough.

This "blame the victim" defence failed with the judge finding that the plaintiff could not be faulted in how he attempted to deal with his pain.

That wasn't the end of the matter, though.

The judge did find that further care, largely psychological, would do a lot of good. The judge accepted the optimistic prediction that with further rehabilitation, "the plaintiff will largely return to his pre-Accident level of functioning."

The further rehabilitation included attendance at a residential multidisciplinary pain clinic and a course of psychological therapy.

The defence managed to avoid compensating the plaintiff for a future of chronic pain and disability with what I refer to as the "magic pill defence."

Even though it had been three and a half years since the crash, with the plaintiff continuing to suffer from chronic pain and depression, the 'magic pill" of some further treatment would fix him.

Perhaps the optimistic prediction will come to pass and the approximately \$260,000 of compensated assessed by the judge will turn out to be fair. As with all predictions, though, perhaps not and it will turn out that this plaintiff was grossly

undercompensated.

This is the problem of coming to court before all possible care has been fully explored and attempted. The judge is left to, essentially, gaze within a crystal ball to predict the future. One of the most critical

functions of a personal injury lawyer, in my view, is to ensure that all possible treatment options have been identified and fully attempted so as to eliminate, as much as possible, the crystal ball gazing that is otherwise necessary to predict the future.

After all, care has been attempted, so the "proof is in the pudding" as to how successful it is.

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Revive broken household items

Do you have a household item in need of repair, don't want to toss it out, but you're not sure how to go about fixing it? Toaster that just won't toast? A lamp on the fritz? The old bicycle sitting neglected with a

Then the Repair Café could be just the event you're looking for. Organized by the Regional Waste Reduction Office, the Repair Café takes place Saturday, April 18, 10 a.m. to 2 p.m., at the Okanagan College campus Center for Learning.

"Most often, when you get an item repaired, it's a drop off, pick up process, and you're not part of the repair work or the solution, you don't get to see how it's done," said waste reduction facilitator Rae Stewart.

"At the Repair Café, people are the process, and the free repair of items engages everyone participating."

"The sad truth is many household items have become cheaper to replace than repair, and the list of companies that refurbish items or fix broken appliances is short. Repair Cafes enlist handy volunteers to help fix broken household items at no cost and teach basic repair skills. They help shift us from a throw away to a fix-it society."

Stewart says most of our fixers are simply hobbyists who enjoy helping others and want to keep items out of the landfill. "They're all volunteering their time. They vary in age and background, just like those that come with broken items to be fixed."

To learn more about the Repair Café, visit regionaldistrict.com/recycle or call the Regional Waste Reduction Office at 250-469-6250.

www.prairiecoastequipment.com

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Kelowna North & Glenmore

#KC04000302 - 50 Papers Camelot Crt, Highgate Crt, Magic Dr. 241 to 272, Pendragon Pl, Rio Dr. 1195 to 1248

#KC04000303 - 70 Papers Rio Dr. S. 309 to 417, Woodcrest Crt, Woodwind Crt.

#KC04000600 - 44 Papers Rialto Dr. Rio Dr N. 1232 to 1257, Rodondo Pl. Clear Pond Crt, Clear Pond PL

#KC04000702 - 24 Papers Cara Glen Way 1501 to 1533, Caramillo Rd. 8 to 20 Even Side Only, Clifton Rd. S. 523 to 599

#KC04000902 - 48 Papers Lindsay Dr. 1526 to 1649, Patricia Crt, Sonora Dr. 1507 to 1678

#KC04001003 - 39 Papers Glenmeadows Rd, 556 to 608, Lipsett Crt, Sprucedale Crt, Spruceglen Dr. 1729 to 1772, Sprucegrove Crt, Sprucemont Crt.

#KC04002600 - 45 Papers Ayre Ave, Ayre Crt, Ciffon Rd. 800 to 999, Glen St, Lynwood Cres, Macleay Crt.

Kelowna South & Mission

#KC02006200 - 16 Papers Boyce Cres, Pandosy St. 1715 to 1905, Water St. 1746 to 1891

#XC02006300 - 38 Papers Buckland Ave. 525 to 535, Ellis St. 1715 Only, Harvey Ave. 515 to 653 Odd Side Only, Marshall St, Rosemead Ave. 535 to 532, Rowcliffe Ave. 500 to 699, Sutherland Ave. 500 to 699

Cres. 1907 to 1989, Pandosy St. 1959 to 1965, Park Ave. 310 to 479, Water St. 1908 to 1060

#KC02007600 - 43 Papers Abbott St. 2165 to 2251, Genwood Ave. 300 to 499, Long St. 2127 to 2160, Pandosy St. 2154 to 2178 Even Side Only, Royal Ave. 300 to 499, Strathcona Ave.

#KC02008300 - 50 Papers Abbott St. 2362 to 2500, Birch Ave. 400 to 499, Francis Ave. 300 to 499, Pandosy St. 2366 to 2490 Even Side Only, Robin Way, Taylor Cres.

#KC03011401 - 142 Papers - Bird Pl, Capozzi Rd. 3814 to 3848, Cook Rd, Gordon Dr. 3802 to 3818, Lakeshore Rd. 3786 to 3805, Truswell Rd. 519 to 3900

#KC03011701 - 57 Papers Dunwegan Crt, Edinburgh Crt, Kensington Dr, Kirkby Crt, Lysons Cres, Metcalfe Ave.

#KC03011702 - 18 Papers - Hobson Rd. 4200 to 4397

#KC03011901 - 26 Papers Duke Crt, Eldorado Crt, Eldorado Rd. 402 to 467, Walker Rd. 4506 to 4529

#KC03012301 - 33 Papers Bayhill PI, Carriage Crt, Vintage Terrace Rd, Vintage Terrace Crt. #KC03012500 – 48 Papers Gordon Dr. 4260 to 4346 Even Side Only, Paret PI, San Juan Crt, San Michelle Crt, San Michelle Rd.

#KC03012801 - 56 Papers Eso Crt, Hazell Rd, Torrs Crt, Torrs Rd, Turner Rd. 4303 to 4353

#KC03013603 - 60 Papers Canyon Falls Crt, Canyon Ridge Cres, Canyon Ridge Crt, Canyon View Crt, Mid Ridge Crt, Westridge Dr. 4920 Only

#KC03014003 - 40 Papers Conally Lane, Main St, McCarren Ave. 351 to 436, Winslow St.

#KC03014100 - 38 Papers Ash Rd, Okaview Rd. 382 to 458

#KC03014201 - 58 Papers Cantina Crt, South Crest Dr. 700 to 786, South Ridge Dr. 5026 to 5114

#KC03014204 - 51 Papers Benimore Crt, Benimore PI, Burnell Crt, Dougherty Ave. 630 to 672, South Ridge Dr. 5161 to 5251

#KC03016708 - 37 Papers Dillon Crt, Dillon PI, Quarry Ave, Quarry PI.

#KC03017201 – 37 Papers Mountainside Dr. 5451 to 5519, Mountainside Lane, Rindle Crt, Trestle Crt.

#KC03058903 - 19 Papers Cavell PI, 438 to 454, Hedeman Crt. 5320 to 5411

Rutland South & Rutland North

#KC05020800 - 51 Papers Carshyl Crt, Cornwall Rd, Cridge Rd, Ziprick Rd. 215 to 470

#KC05021701 - 66 Papers Hwy. 33 W. 735 to 815 Odd Side Only, Balmoral Rd, Barber Rd, Hollywood Rd. 215 to 546, Petch Rd.

#KC05024002 - 85 Papers Eastbourne Crt, Eastbourne PI, Eastbourne Rd, Seaford Rd, Willits Rd.

#KC05025006 - 32 Papers - Black Mountain Cres.

#KC06027501 — 61 Papers Alta Dena Rd, Euclid Rd, Felix Rd, McCurdy Rd. 130 to 355

#KC06027602 - 63 Papers Almond Crt, Duggan Crt, McCurdy Rd.E. 105 to 180, Rutland Rd. N. 900 to 1370

#KC06029401 - 17 Papers = Spencer Rd. 6200

West Kelowna

#KC07001014 - 28 Papers - Aurora Hgts.

#KC07001118 – 92 Papers Rosealee Crt, Rosealee Lane 1951 to 2068, Roseridge Crt.

#KC08001311 - 25 Papers Derrickson Pl. Manuel Rd. Tomat Ave. 2036 to 2106 #KC08001312 - 24 Papers Abel PI, Abel St, Tomat Ave. 1996 to 2030

#KC08001411 - 22 Papers- Alexander PI, Michelle Cres.

#KC08001812 - 35 Papers Collingwood Rd, Harmon Rd, McKay Rd.

#KC08001911 – 23 Papers Anders Rd. 890 to 930 Even Side Only, Boucherie Rd. 2630 to 2689, Skyline Rd.

#KC08002012 -- 19 Papers Anders Rd. Odd Side Only, Boucherie Rd. 2705 to 2775 Odd Side Only, Olalia Rd, Stevenson Rd, Teal Rd.

#KC08002210 - 34 Papers -Britt Rd, Franwill Rd, Kerry Lane, Thacker Dr. 2815 to 2925

#KC08003012 - 53 Papers McCallum Rd, Menu Rd. 1108 to 1152 Even Side, Menu Rd. 1240 to 1435, Timothy PI, Topham Rd.

#KC08003213 - 47 Papers Lakeview Cove PI, Lakeview Cove Rd, Rock Rose PI.

#KC08003810 - 115 Papers Caprl Rd. Riffington PI, Ross Rd. 1600 to 1799

#KC09006610 - 50 Papers Ridgerock PI, Ridgerock Way, Sagebrush Crt, Sunset PI, Shannon Way 2057 to 2180

#KC09010214 - 56 Papers Tuscany Dr, Mountains Hollow Lane, Paramount Dr, Ryser Pl, Tallus Green Cres.

#KC10004114 - 50 Papers -Braeburn Crt, Ridge Blvd. #KC10004810 - 55 Papers -Boucherie Rd. 2065

#KC10005312 - 33 Papers Carrall Rd, Boucherle Rd. 2150 Only

#KC10006912 – 73 Papers Copper Ridge Crt, Copper Ridge Dr, Copper Ridge Pl, Copper Ridge Way, Whispering Hills Dr.

#KC10006913 - 48 Papers Bridlehill Crt, Bridlehill Dr. 3051 to 3086, Rhinestone Rd.

#KC10006914 - 42 Papers Bridlehill Dr. 3021 to 3037, Saddle Ridge Dr. 2539 to 2660

#KC10007210 - 29 Papers Glen Crt, Glenmount Crt, Glenway Crt, Glenway Rd. 3849 to 3882, Lower Glenrosa Rd. 2805 to 2835 Odd Side Only #KC10007310 - 37 Papers Glenford Rd, Glenview Rd, Woodell Rd, Lower Glenross Rd. 2841 to 2869 Odd Side Only

#KC10007410 - 31 Papers Lower Glenrosa Rd. 2816 to 2888 Even Side Only, Webber Rd. 3591 to 3725

#KC10007910 - 41 Papers Barney Rd, Dunbarton Rd. 3435 to 3551, Webber Rd. 3345 to 3531 Odd Side Only

#KC10008012 - 58 Papers Ficke Rd, Malcolm Rd, McNamara Rd, McVicar Rd, Web-ber Rd. 3386 to 3480 Even Side Only

#KC10008110 - 79 Papers Chives PI, McIver Rd. 3344 to 3576, McTaggart Rd. #KC10008610 - 50 Papers Coventry Cres, Webber Rd. 3155 to 3194

X300 Garden Tractor 42" Mower



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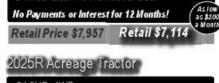
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