

news

PERSONAL INJURY SETTLEMENT

'Lawyering up' changes injury claim process

Is it cheating for an insurance adjuster to mislead you, or is deception fair game in a negotiation?

This is the third in a series of columns dedicated to the exposure of insurance adjuster deception.

This time, my focus is on the artificial nature of the negotiation of a personal injury settlement and the misleading advice some adjusters give about the consequences of not

Achieving Justice

PAUL HERGOTT



making a deal.

An inattentive driver causes you injuries and losses.

Our civil justice system gives you the "claim" or "right of action" against that driver for fair, financial compensation

for those injuries and losses.

It is the claim that is negotiated with an adjuster who works for the inattentive driver's liability insurance company.

The adjuster will often make the first offer. You want nothing more than to be treated fairly.

Negotiations, generally, are uncomfortable for you.

Your discomfort

is compounded by your complete lack of familiarity with this claim thing and what settlement amount might be fair.

Many people have told you not to accept the insurance company's first offer. You follow that advice and reject it.

The adjuster will ask you how much compensation you think is fair. Of course, you don't have a clue.

You fear being

perceived as greedy if you respond with too high a number.

I've written before about negotiating the purchase of a beautiful stone carved chess set while vacationing in Mexico.

I had no idea what it was worth. I didn't want to seem greedy or insulting by offering too little in response to the \$200 price-tag, but I also didn't want to be ripped off.

I ended up being ripped off!

The reality is that it doesn't really matter what number you give the adjuster.

The adjuster is working within a fixed "authority" of compensation he or she is permitted to offer.

If you have reached a plateau in your symptoms after following every medical recommendation available to you, such that your symptoms are likely to continue indefinitely, that "authority" will never come close to fair compensation.

Yes, the offer will increase.

That "don't accept their first offer" advice will turn out to be good advice. Perhaps a bit of back and forth will ensue.

On reaching that authority, the adjuster will be firm that it is all the compensation he or she can or will offer.

Often, your choice will be described as one between settling your case at that amount or going to trial.

I have also heard of some adjusters saying that if you choose to "lawyer up," that offer will be off the table, insinuating that their settlement position might go down.

Not having any idea that the offer is completely outside the

ballpark of fair and fearful of a trial, you are likely to accept the offer.

The truth is that the adjuster you are dealing with is only the start of the negotiation.

"Lawyering up" automatically results in a new adjuster being appointed and a completely different "authority" process.

Another truth is that trials are required in only a very small percentage of personal injury claims.

It's absolutely not a choice of "accept this or go to trial."

The true choice is to "accept this or hire a lawyer and the negotiation will continue".

A trial is necessary only if, after a prolonged, further negotiation, the much higher new level of authority is so far below what is fair that you decide to go through the process in order to achieve justice.

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 personal injury lawyer at Hergott Law in West Kelowna. paul@hlaw.ca

Encouraging women to breastfeed at work

World Breastfeeding Week will be celebrated from Oct. 1 to 8 with the theme for 2015 being Breastfeeding and Work: Let's Make it Work, a call for global action to support women to combine breastfeeding and work.

The World Health Organization recommends exclusive breastfeeding for the first six months and continued breastfeeding, with the introduction of solid food, for two years or beyond.

Successfully combining work and breastfeeding makes it easier for women to return to work and breastfeed longer, which benefits babies, mothers and employers. Whether a woman is working in a formal, non-formal or home setting, it is important she is empowered to breastfeed.

"Time, space and support are essential for encouraging breastfeeding at work. Employers can support breastfeeding by providing a clean, comfortable and private space and allowing a flexible time schedule to accommodate breastfeeding," said Patty Hallam, knowledge coordinator with Interior Health.

"Support from a team of helpers that includes family, friends, health-care providers, communities, as well as employers and co-workers can make all the difference in building a woman's confidence and comfort with breastfeeding."

IH nurses along with their community partners will be hosting events to mark World Breastfeeding Week. For more information, visit www.interiorhealth.ca, follow us on Twitter @Interior_Health, or like us on Facebook at www.facebook.com/InteriorHealth.

Vertical sidebar of logos including RONA, LONDON DRUGS, Tom Harris, Kellogg's, Creative Mortgage, SleepCountry, RPX, Nestle, SUN VALLEY WINDOW CLEANERS, Labatt, PRINCESS AUTO, Apple Valley Promotions, Posters & Juice, Manma Poin, ABC hobby, Perkins, CARAMOOMEL, SunRype, Skogies, and others.

Advertisement for Maxine DeHart's 18th Annual Ramada Hotel UNITED WAY Drive-Thru Breakfast. Includes details for Thursday, October 1st 6-9 am at Ramada Hotel - 2170 Harvey Ave. Features a breakfast bag filled with goodies from brands like Tim, Coca-Cola, Hortons, DASANI, BiOWhite, REMAX Kelowna, HUDSONS BAY, Office Furnishings, Progressive, KOZY SHACK, BC, island FARMS, Marios, and Projon! Value at over \$135.

Vertical sidebar of logos including CAPITAL NEWS, WESTIETV, Sunfm, Kelowna, Global OKANAGAN, ez ROCK 101.5, AM 1150, Shaw TV, GENERAL MILLS, Scotiabank, POWERPLANT, Old Dutch, ORCHARD PARK, LABOSSIERE & COMPANY, MELANIE LYNE, Laura, OKANAGAN, PAPA JOHN'S, Bernard Dental, Chapters, McDonald's, PURINA, arby's, Dr. Tom Martin, Heather Zais, and Smart Betty.