

news

INJURY CLAIMS

Negotiating a fair settlement

Time deadlines and low ball offers were the first two of my series about ICBC negotiation tactics.

Today, I am writing about a less recognizable, insidious tactic.

A personal injury claim is not like the stone chess set I got "high balled" on in Mexico.

With the chess set, I could pick up and examine every stone piece as well as the board, looking for chips or cracks.

I didn't have to trust anything that came out of the vendor's mouth about what I was purchasing.

The negotiation was solely about the price of a plainly visible, examinable item. Compare that with the purchase of a used car.

At my level of mechanical expertise, about the only thing that I can independently verify is the depth of tire tread. Is it original paint or has paint been used to cover up Bordo? Might the brakes or transmission be on their last legs? Does the car have a week of life left or another 200,000 kilometres?

Achieving Justice

PAUL HERGOTT



SEE HERGOTT A23

Time to start digging in the garden

I contemplated crafting a rousing and titillating column with an April Fools Day flavour, but I decided when it comes to an April's fool there was no way I could beat Donald Trump.

Besides, I waxed on profusely last year recalling some of the best media inspired April fools pranks in recent memory.

I am confident nothing will ever beat 'metric time,' or creating the myth that downtown Kelowna was built on a thin, narrow shelf of land poised at any moment to slip into Okanagan Lake.

Therefore, this year I will leave any such fun tomfoolery to other ink stained wretches.

I do admit, however, feeling euphoric over the calendar flip and recent warm weather indicating spring has finally sprung.

Easter has always marked a special time

Hodge Podge

CHARLIE HODGE



been written about the many marvelous contributions to our community that Ben unselfishly bestowed.

of year for me aside from the religious connotations.

Not only is it a chance to visit with family and friends, but also the opportunity to dig out the gardening equipment and turn some turf.

As I write this, Tez is busy in the yard prepping the ground for a bundle of newly purchased raspberries. Can summer be far away?

Of course, Easter is way more fun when one is blessed with having a six-year-old granddaughter, and two great-grandchildren, ages two and three, who believe in the Easter Bunny and relish the goodies said bunny brings.

Tez and I maintain the greatest joy of being grandparents is being able to stuff the offspring's offspring full of candy and covered in chocolate, and then send them home to mom to clean up.

Unfortunately, this year the joys of Easter were somewhat dampened by the loss of three wonderful influences in my life.

Like many, I was saddened to hear of the loss of long-time Kelowna icon Ben Lee.

Volumes have already

Ben not only served on Kelowna city council for more than two decades, he was a leader in multicultural awareness and events, a consummate community man, well-loved school teacher, artist, and overall a top-shelf human being.

It is a special sort of man that has the ability to silence a room by merely walking in.

Last year, Ben quietly entered the city council chambers part way through a meeting and despite his humble entry, Mayor Colin Basran noticed his arrival and paused during his commentary long enough to acknowledge Lee's presence.

Such a scenario has rarely if ever happened before or since in the council chambers, a gesture that reflected the respect Mr. Lee garnered.

There are simply not enough superlatives to properly acknowledge the value Ben had in our community.

I was also deeply struck with grief last week at the passing of another remarkable human being.

Mike Motschko was never a city councillor or a high-rolling business person, however he was a tremendous inspiration

and motivation for many who knew him.

Mike had a heart of gold, a quick wit, and a calm reassuring presents.

I had the pleasure of knowing Mike since elementary school.

Though our paths seldom crossed, there was always an affinity and respect for one another.

Last year while hospitalized with pneumonia, which significantly impacted my emphysema, it was Mike who was my greatest inspiration to battle through it.

He was stuck in the next bed to me at KGH and it was apparent even then that he was struggling with cancer.

Mike was never willing to concede he was in trouble, instead choosing to focus positive energy not only on himself but everyone else as well.

Shortly after I was assigned to his room in a groggy state from medication, Mike contacted my wife to let her know I was safe and sleeping in the room next to him.

Mike knew full well Tez was worried and not aware whether I was out of emergency or not. That was the kind of sensitive and caring man he was.

During the next week of my hospital recovery, Mike and I shared many chuckles and tall tales, while also sharing quietly a few of our fears.

I will never forget your kindness and strength

Mike. Bless you and your family.

On a far less tragic but still sad scenario, Kelowna also said goodbye this week to the old Paramount Theatre on Bernard Avenue.

As a kid growing up in Kelowna, the Paramount was the only theatre in town.

Like thousands of other youngsters, I saw my first movie in that old building, complete with luminous wall lights with fish designs on them, rickety old seats and the best popcorn in town.

My mind reels recalling numerous youthful dates and special evenings at the Paramount Theatre over the years. I shall miss the grand old building as will many others.

On a positive note, Kelowna gains two new wonderful residents this spring with the arrival of Dan and Louise McGauley.

The McGauleys, among their many other claims to fame, owned and later operated the bed-and-breakfast at the infamous Blaylock Mansion in Nelson for the past two decades.

I am not sure how Blaylock Mansion will possibly survive without their tremendous hospitality skills, charming personalities, quick wit and hard work.

What I do know is that Nelson's loss is Kelowna's gain. Welcome Dan and Louise.

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news

Calculating the long-term impact of soft tissue injuries

HERGOTT FROM A22

With seat belts and air bags, few ICBC claims involve fractures. Most involve injuries to the connective tissues and joints between the vertebrae in the spine that sustain microtears and other invisible damage, known as "soft tissue injuries."

If you put the stone chess set on one end and a used car on the other end, a soft tissue injury would be way off the charts, beyond the used car end of that spectrum.

Even medical science has difficulty understanding exactly what it is going on with soft tissue injuries, which cannot be seen on X-rays, CT scans or MRIs.

You could hire a mechanic to go over a used car with a fine toothed comb and tell you exactly what condition it is in.

No medical specialist in the land can do the same thing with your soft tissue injury.

The science is "clear" on one thing, the uncertainty of prognosis.

For most people, pain and other symptoms arising from a soft tissue injuries recover 100 per cent. But for many, they don't.

Some end up with a lifetime of a mild level of pain or discomfort that has a minimal impact on their lives, sort of like

a toothache that never goes away.

The really unlucky ones develop chronic pain conditions that require lidocaine infusions, facet joint injections or rhizotomies, narcotic medication and other therapies to manage their unrelenting pain.

The insidious negotiation tactic I am writing about is the sophisticated ICBC adjuster, knowledgeable about the science, encouraging you to settle your claim on the basis of the optimism of your doctor and others on your treatment team without any mention of the possibility that the optimism is misplaced.

The reason why I call this negotiation tactic insidious is because injured victims don't know this information.

You want so badly to believe your medical team that you are on the road to a full recovery.

A representative of your own insurance company is encouraging you to believe that as well. You have no idea that there is a very real possibility that you might never, ever fully recover and what that might mean for fair compensation.

Fair financial compensation for a temporary soft tissue injury that completely resolves within a short period of time is in a

completely different stratosphere from what's fair to compensate for an injury that never, ever resolves.

I'm talking a minimum of tens of thousands of dollars difference.

Unless you are reading this column, you don't know that information either.

Optimism is an important form of recovery therapy, by the way. The brain is an incredibly powerful healing tool.

You cannot "think" your way out of the very real damage your soft tissues have sustained, but you will have more energy to follow through with stretching and strengthening therapies, be less likely to develop depression, and the list goes on and on.

My advice is to fully embrace the optimism of your medical team and believe the true science that the odds are in your favour to achieve a complete recovery.

Wait until that beautiful recovery is achieved before entering into a settlement negotiation.

Get legal advice to know what your "limitation period" deadline is (it is typically but not always two years).

If you are still dealing with symptoms as that date approaches, make sure to take the necessary steps to protect your rights because you will

be in for the long haul if you want to have a hope of fair compensation, something I'll be covering in the last column of this

series next week.

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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