



Thomas J. Burke, Q.C.
Attorney General and Minister of Justice
N.B. Department of Justice and Consumer Affairs
P.O. Box 6000
Fredericton, NB E3B 5H1

Dear Minister Burke:

Re: Required Amendments to the *New Brunswick Insurance Act*

The Canadian Bar Association is concerned about the flaws in our province's insurance legislation which have recently been illustrated by the decision in *Rossignol v. Rubidge*, 2007 NBQB 089. This is the first decision interpreting New Brunswick's Regulation 2003-20 dealing with what has been defined as "minor personal injury".

Mr. Rossignol sustained a comminuted fracture of his right tibia and fibula along with contusions and abrasions when his motorcycle was struck by a car owned and driven by the Defendant. Mr. Rossignol was hospitalized for eight days and his fractures had to be repaired surgically with internal fixation by way of insertion of a metal rod and screws. A second procedure was required to remove one of the screws. Mr. Rossignol missed two weeks from his university studies. He initially required the use of a walker, followed by crutches for 4-5 months, and a cane for a further 3-4 months.

The Court held that Mr. Rossignol suffered serious leg fractures and was substantially disabled for several months. However, based upon the expansive wording of the definition of "minor personal injury" in the Regulation, the Court concluded that Mr. Rossignol's entitlement to an award of general damages for pain and suffering was limited to \$2,500.00.

This decision illustrates that the definition of "minor personal injury" in the Regulation extends far beyond what the people of this province consider as being a minor injury. Mr. Rossignol's plight provides a clear example of how the legislation enacted by the previous government provides an unfair advantage to automobile insurers at the expense of New Brunswickers who have sustained substantial injuries in motor vehicle accidents.

.../2

March 22, 2007

Page 2 of 2

It is necessary to amend this legislation to reach a proper and equitable balance between reasonable insurance rates and fair compensation for injuries. Without such an amendment, automobile insurers will continue to receive an unfair advantage at the personal cost New Brunswickers such as Mr. Rossignol.

Thank you for considering this request on an urgent basis. The Canadian Bar Association would be pleased to provide further submissions on this issue in order to assist in drafting an amendment which strikes an equitable balance for New Brunswickers.

Yours truly,

A handwritten signature in black ink, appearing to read 'René J. Basque', with a long horizontal flourish extending to the right.

René J. Basque
President, CBA New Brunswick