

Bryan Sansom

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Bryan Sansom received an Honours B.Sc. in Biology and Chemistry from Wilfrid Laurier University, a M.Sc. in Microbiology from the University of Waterloo, and a law degree from the University of Western Ontario. In addition to his academics, Bryan also played varsity hockey. The catastrophic injury of a loved one inspired Bryan to pursue a career in personal injury. As a result, Bryan is a passionate advocate and has an empathetic and understanding approach to client interaction.

Bryan joined McLeish Orlando LLP as a summer student in 2014. He went on to complete his articles at McLeish Orlando LLP, and joined the firm as a lawyer in 2017.

Bryan is a member of the Ontario Trial Lawyers' Association, the Ontario Bar Association and Canadian Bar Association.



Top Five AB Cases and How They Affect Your Patients/Practice

Presented By: Bryan Sansom
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OVERVIEW

Cases to focus on:

- Professional vs Non-Professional AC Providers
- Catastrophic Impairment
 - First two LAT decisions (GCS of ≤ 9)
 - Assigning ranges for WPI impairment
 - FSCO vs. LAT

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MVAC Fund v Barnes¹

- MVA on January 3, 2012; deemed catastrophically impaired
- Applicant's mother took unpaid leave from her employment to provide attendant care services
- February, 2014 – SABS amended to limit AC benefits to economic loss

¹FSCO P16-00087 – Decision released April 6, 2017

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Barnes, cont'd...

Issue on appeal: Does the 2014 *SABS* amendment apply to Ms. Barnes?

Decision: Yes, applicant's entitlement to AC benefits is limited to mother's economic loss

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Barnes, cont'd...

Practical Considerations:

- Professional AC providers are preferred
 - Maximize patient recovery
 - Maximize future settlement potential

NOTE – case is currently under judicial review

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*Mandamin and Pafco Insurance Co.*²

- MVA on July 4, 2005 (born January 9, 2003). Applied for CAT Determination in May 2010.

Issue: Does FSCO have jurisdiction to determine catastrophic impairment alone?

Decision: In the absence of a claim for any benefits, a finding of catastrophic impairment cannot be made.

²FSCO A14-009905 Decision: July 31, 2017



Mandamin, cont'd...

Practical Considerations:

- Timing of Treatment and Assessment Plans
- Effective communication with your patient's lawyer
- No similar LAT decision



***D.M. and Gore Mutual
Insurance***
LAT 16-001305

- Applicant injured in MVA on December 20, 2014 (12 years old)

Issue: Did the Applicant sustain a catastrophic impairment due to a GSC score of 9 or less?

Decision: Applicant sustained a catastrophic impairment.

***P.L.F.R. and Intact
Insurance Co.***
LAT 16-000145

- Applicant injured in MVA on October 2, 2015



Catastrophic Impairment, GCS ≤ 9

Practical Considerations:

- GCS of 9 is a threshold for CAT
 - No lasting neurological deficit required
- Medication and/or intubation are not confounding factors
- LAT appears to be following FSCO jurisprudence



*Applicant v Peel Mutual Insurance Co.*³

- MVA on September 28, 2012. CAT application brought in December 2014.

Issue: Did the Applicant sustain a WPI of 55% or greater?

Decision: The Applicant ***did not*** sustain a WPI of 55% or greater.

³16-000013/AABS Decision: April 21, 2017



Applicant cont'd...

Practical Considerations:

- Use of impairment “ranges”
- Defaulting to the high-end of the range
- Explain and justify, include related diagnoses
- Global Assessment of Functioning scores



THANK YOU

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