



# McCague Borlack<sup>LLP</sup>

Barristers & Solicitors

## ACCIDENT BENEFITS

The Accident Benefits Group at McCague Borlack, LLP is highly specialized in the defense of accident benefits claims and has extensive experience in this area. Our lawyers regularly appear before the Financial Services Commission, handling mediations and arbitrations. Our accident benefits lawyers have appeared on behalf of insurer clients at the Superior Court of Justice, the Divisional Court and the Ontario Court of Appeal. Our Accident Benefits team represents insurers in all aspects of accident benefits dispute resolution throughout the province. The firm has been a regular participant in the FSCO Bar/Dispute Resolution Group.

Our Accident Benefits Practice group has unique expertise in the area of loss transfer and priority dispute. Our lawyers have regularly appeared before Private Arbitrators regarding disputes between insurers.

Our team of Accident Benefits litigators have established considerable precedent on behalf of their insurer clients and the insurance industry as a whole. The case law outlined below from the Courts, the Financial Services Commission and Private Arbitral decisions is intended to serve as a resource to benefit our clients.

Our Accident Benefits Lawyers have acted as legislative counsel on behalf of automobile insurers. This legislative work included approaching the Financial Services Commission of Ontario and successfully arguing for the Superintendent's approval of Insurers' Preferred Provider Networks (PPN's). This permitted insurers across the Province of Ontario to arrange for a claimant to attend groups of insurer selected health care providers to deliver programs of care. Thereafter, as counsel for insurers, the best practices for Preferred Provider Networks was established to minimize insurer's exposure to conflicts of interest and unfair and deceptive practice and act allegations. Currently, members of our Accident Benefits group serve on the Executive of the Ontario Bar Association with a member acting as Co-Chair in the Government Liason position of the Civil Litigation Section, assisting with legislative submissions on behalf of the bar.

The Accident Benefits Group presents regular educational seminars to our accident benefits adjusters and lawyers in order to keep our clients apprised of all changes to the legislation, developments in the case law, as well as educating on best practices that will assist in their handling of claims while furthering their corporate goals. In addition, our Accident Benefits team regularly presents at both legal and insurance educational programs.

With offices in Toronto, Ottawa, Cambridge and Barrie we are able to provide defence of accident benefits claims throughout the Province of Ontario on behalf of our insurance clients.

### Chairs

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### Members of the Group

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# ACCIDENT BENEFITS<sup>cont'd...</sup>

## Services

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Members of our Accident Benefits Group defend a large volume of accident benefits claims, and frequently act on mediations, arbitrations, trials, and appeals, on such issues as:

- Loss transfer;
- Priority disputes between insurers; and
- Work-related injuries.

Our Accident Benefits Group also regularly attends the following:

- Counsel Forum at the Financial Services Commission; and
- Hearings before the Workplace Safety and Insurance Appeals Tribunal.

We advise clients on a regular basis on all matters relating to accident benefits, and our trial experience is rich and varied. Our Accident Benefits Group strives to maximize the results for our clients, while minimizing the legal expense.

## Featured Cases

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- *Featured Case: Brentnell and Wawanesa Mutual Insurance Co. - FSCO A13-008004* - Michael Kennedy, July 06, 2015
- *Henry v. Aviva Canada Inc. (May 29, 2014), FSCO P13-00016 (Blackman)* - James M. Brown, June 02, 2015
- *Navage v. Aviva Canada Inc. (May 6, 2014), FSCO A13-0000006 (Mutch)* - James M. Brown, June 02, 2015
- *Simser v. Aviva Canada Inc., 2015 ONSC 2363 (Div. Ct.); (January 9, 2014), FSCO P13-00004 (Blackman); (January 16, 2013), FSCO A11-004610 (Lee)* - James M. Brown, June 02, 2015
- *Leduc v. Aviva Canada Inc. (June 25, 2014), FSCO A12-001105 (Ahlfeld)* - James M. Brown, June 02, 2015

## Recent Publications

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- *Is there a 10 day time period on EUOs? Case Comment: Choeun ats Allstate* by Domenic D. Nicassio, First published to a client transportation law news alert, April 07, 2016
- *Update from the Trenches: The Court of Appeal Denies the Availability of the Doctrine of Laches in Loss Transfer Disputes* by Michael Blinick, First presented at MB's Transportation Law Seminar, April 07, 2016
- *An Update on Uber and Autonomous Vehicles* by Michael Blinick and Peter Vlaar, First presented at MB's Transportation Law Seminar, April 07, 2016
- *Changes to the Accident Benefits Regime* by Catherine A. Korte, First presented at MB's Transportation Law Seminar, April 07, 2016
- *Utilizing New Medical Technology in Today's Litigation* by James Tomlinson and Garrett Harper, First presented at MB's Transportation Law Seminar, April 07, 2016
- *The Importance of Clear, Unequivocal Refusals Case Comment: Falcon and State Farm* by Domenic D. Nicassio, MB Transportation Newsletter, March 28, 2016
- *Insurers Seeking Recovery of Overpayment? Beware of Notice Requirements Case Comment: Intact Insurance v. Marianayagam 2016* by Domenic D. Nicassio, MB Client Newsletter, March 18, 2016
- *John Hancock would be proud: Chaparina and State Farm and the importance of signatures on accident benefits treatment plans* by Robert Smith, MB Transportation Newsletter, March 14, 2016
- *Will the Cap on Attendant Care Benefits Have Retroactive Effect? Superior Court Says 'No' - Case Comment: Davis ats Wawanesa 2015* by Domenic D. Nicassio, MB Transportation Newsletter, March 14, 2016
- *Goodbye FSCO, Hello LAT!* by Michael Kennedy, MB Transportation Newsletter, February 22, 2016