

Insurance and Tort Liability

SUMMARY

Our national Insurance and Tort Liability Group is unique in its size and specialization.

Our clients include many of the largest national and global insurers, reinsurers and reciprocals. In addition, we provide legal services to brokerage firms, companies carrying substantial self-insured retentions, adjusting firms and regulatory bodies involved in the insurance industry. We are involved as counsel in all areas of insurance law and litigate at every level of court including the Supreme Court of Canada.

We have extensive experience defending complex insurance claims including class actions. Our practice also includes the drafting of policy wordings, the interpretation of all types of insurance policies, coverage opinions, the defence of direct actions against insurers, prosecution of subrogated claims and participation in negotiation, mediation and arbitration procedures.

PUBLICATIONS

- ["Spotlight on Medical Implant Devices Spurs Regulatory Changes,"](#) November 2018.
- ["The Right to Subrogate: Court Finds Bailment as an Exception to s. 263 of the Insurance Act,"](#) November 2018.
- ["Party's Over: Duty of Care of Social Hosts Hinges on Fact-Specific Determinations of Foreseeability and Proximity,"](#) November 2018.
- ["The Sensor: Insuring Automated Vehicles: The Insurance Bureau of Canada Recommends "Single Insurance Policy","](#) November 2018.
- ["Court Denies Summary Judgment to Defendant Driver with Right-of-Way,"](#) November 2018.
- ["Legalization of Cannabis in Canada and Vessel Operation,"](#) October 2018.
- ["Weed Control: A Municipality's Role in the Legalization of Recreational Cannabis,"](#) October 2018.
- ["Stop Here, Not There: Court of Appeal Comes to Seemingly Different Conclusions in Two Strikingly Similar Roadway Repair Cases,"](#) October 2018.
- ["Court of Appeal rejects "Appropriate Means" argument in finding that limitation period expired,"](#) September 2018.
- ["Reckless and Pernicious" Refusal to Consider Settlement Results in Pyrrhic Victory,"](#) September 2018.
- ["Complex Individual Damages Assessment Complicates Resolution of Class Action,"](#) August 2018.
- ["Destructive Testing Marks Start of Two-Year Limitation Period in Product Claim,"](#) August 2018.
- ["Potential Jurors Who Pay Automobile Insurance Premiums Can Serve on Civil Juries,"](#) August 2018.
- ["New Guidelines from Transport Canada on Automated Vehicle Testing,"](#) July 2018.
- ["Soccer Violence and the Occupiers' Liability Act,"](#) July 2018.
- ["Municipality Slides Away from Liability... Again,"](#) June 2018.

- ["Court of Appeal Overturns Trial Decision on Police Negligence Investigation, False Arrest, False Imprisonment and Charter breach,"](#) June 2018.
- ["Substantive Changes to Ontario's Highway Minimum Maintenance Standards Now in Effect,"](#) May 2018.
- ["Supreme Court of Canada Reinforces Reasonable Foreseeability of Harm as Critical Limiting Principle in the Law of Negligence,"](#) May 2018.
- ["Statutory Deductible Significantly Reduces Jury Award in Recent Post-Trial Ruling,"](#) May 2018.
- ["Court of Appeal Affirms Police Owe No Private Law Duty of Care to Victims or Their Families,"](#) April 2018.
- ["Insurer Obtains Assignment of Long-Term Disability Benefits Following Motor Vehicle Accident Trial,"](#) April 2018.
- ["BLG Successfully Intervenes in Upholding Waivers in the Recreational Sporting Industry,"](#) March 2018.
- ["Limitation Period Reconsidered For Failure to Appropriately Insure,"](#) March 2018.
- ["Court of Appeal Confirms Limitation Period for Police Battery Claim Extended to Conclusion of Underlying Criminal Charge,"](#) March 2018.
- ["New Act Strengthens Motor Vehicle Safety: Minister Gains Expanded Powers,"](#) March 2018.
- ["Compliance with Minimum Maintenance Standards assists in establishing statutory defences under section 42\(3\),"](#) March 2018.
- ["Beware of Limitation Defences on Duty to Defend Application: Enforcing the Insurance Covenant,"](#) February 2018.
- ["Senate Committee Calls For National Autonomous Vehicles Strategy in New Report,"](#) January 2018.
- ["Negligent Investigation Claim Against Police Dismissed in Child Sexual Assault Case,"](#) January 2018.
- ["Ontario Court of Appeal Decision Affirms Corroboration is not Causation,"](#) December 2017.
- ["BLG Successfully Applies No-Consent Defence in Single-Vehicle Accident Case,"](#) December 2017.
- ["Ontario Court of Appeal Extends Limitation Period for Police Battery Claim,"](#) December 2017.
- ["Mari-Times Newsletter,"](#) December 2017.
- ["Court of Appeal Upholds Dismissal of Action Against Municipality Based on Defences Available Under Municipal Act,"](#) November 2017.
- ["Product Liability Handbook,"](#) November 2017.
- ["Latent Defects, Limited Warranties and Maritime Law,"](#) October 2017.
- ["Court Directs That Additional Oral Evidence be Adduced on Summary Judgment Motion in Fire Loss Product Liability Claim,"](#) October 2017.
- ["United States Court of Appeals \(6th Circuit\) Provides a New Interpretation of Article 17\(1\) of the Montreal Convention,"](#) September 2017.

- "Subjective beliefs alone not sufficient to demonstrate breach of duty of care in Occupiers' Liability claims," September 2017.
- "When is it "Appropriate" to Commence an Action? Court of Appeal Provides Further Guidance on Limitation Periods," September 2017.
- "Court of Appeal Clarifies Interpretation of 2015 Amendments to the Insurance Act With Respect to Statutory Deductibles and Interest," September 2017.
- "Court of Appeal Clarifies Deduction and Assignment of Statutory Accident Benefits in Motor Vehicle Accident Litigation," September 2017.
- "Prioritizing Safety: The New U.S. Federal Guidelines for Automated Driving Systems," September 2017.
- "BLG successfully represents air charter company during WSIAT application and reconsideration," September 2017.
- "Cautious Use of Rule 2.1 Against Vexatious Claims in Khan v. Krylov & Company LLP," August 2017.
- "Municipality successful in relying on 10-day notice period in claim involving a minor," July 2017.
- "Court Recognizes Contractor's Obligation to Fund the Defence of the Municipality where Contractor Failed to Obtain Insurance," June 2017.
- "Superior Court Affirms Municipality's Right to Counsel of their Choosing," June 2017.
- "Proving Mental Injury — The Supreme Court Strikes Lower Courts' Requirement for a Recognized Psychiatric Illness but Confirms Injury Must Be Serious and Prolonged," June 2017.
- "Misrepresentation Must Be Material and not Based on Mere Speculation," May 2017.
- "What's Old is New Again: Ontario Court of Appeal Affirms First Principles in Roadway Liability," May 2017.
- "Court of Appeal upholds finding that storefront was occupier of municipal sidewalk," May 2017.
- "Superior Court Provides Further Guidance on Discoverability and When "Due Diligence" Has Been Demonstrated," April 2017.
- "Ontario Court of Appeal determines that GARA is Not Applicable in Ontario Proceeding," April 2017.
- "Transport Canada Announces New Regulations for Recreational Drones," March 2017.
- "UK seeks to Legislate Liability for Autonomous Vehicles," March 2017.
- "Social Host Liability: Still a Potential Cause of Action in Ontario," March 2017.
- "Two Judicial Treatments of a Novel Question of Law: Invalidating an Occupier's Waiver Through the Application of Ontario's Consumer Protection Legislation," March 2017.
- "Mayers v. Khan — Summary Judgment can be appropriate to determine liability even when key facts are in dispute," February 2017.
- "Full Indemnity for Costs Award in Disability Insurance Dispute Has Far Reaching Consequences," February 2017.
- "Alberta Court awards fraction of amount claimed in latest chronic pain case," February 2017.

- ["Municipality Slides Away from Liability,"](#) January 2017.
- ["Court of Appeal Confirms Test for Motions to Set Aside Orders Dismissing Actions for Delay,"](#) January 2017.
- ["A New Compulsory Insurance Scheme for Vessels Carrying Passengers,"](#) January 2017.
- ["Court of Appeal Affirms Substantial Damages in Police Liability case for Breaching Confidentiality,"](#) January 2017.
- ["The impact of CETA on the coasting trade regime in Canada: brief analysis of Bill C-30,"](#) December 2016.
- ["Are Insurance Companies Ready for Autonomous Vehicles?,"](#) December 2016.
- ["Saumur v. Antoniak: a Child's Failure to Look Both Ways Before Crossing the Street May Not Be Contributory Negligence,"](#) November 2016.
- ["Autonomous Vehicles Coming to Ontario Roads,"](#) November 2016.
- ["Hoang v Vincentini: A Cautionary Tale on the Issue of Costs and the Implications on All Parties Involved,"](#) November 2016.
- ["J.J. v. C.C.: Court of Appeal Finds Garage and Car Dealership Owed Duty of Care to Minor who Stole Vehicle From Premises,"](#) November 2016.
- ["Court does not require defendant insurer to produce its file from a previous related action,"](#) October 2016.
- ["Positive Proof Not Necessary for Summary Judgment,"](#) September 2016.
- ["BLG Successfully Defends Action Against Police Arising Out of Wiretap Investigations,"](#) August 2016.
- ["Court takes issue with defence medical experts who derived bulk of their income from defence work,"](#) August 2016.
- ["Court of Appeal Requires Defendant's Motion for Summary Judgment to Dismiss Medical Malpractice Claim to Include Evidence Going to the Merits of the Defence,"](#) August 2016.
- ["Autonomous Vehicles,"](#) July 2016.
- ["More food for thought: Court releases new decision on deductible, interest rates and waiving mediation privilege,"](#) June 2016.
- ["Court finds Agreement to Defend and Indemnify where Insurer Appointed One Counsel to Represent Both City and Winter Maintenance Contractor,"](#) June 2016.
- ["Duty of Care to Victims of Problem Gamblers not "Hopeless","](#) June 2016.
- ["A Refresher on the Test for Gross Negligence: Zaravellas v. Armstrong, 2016 ONSC 3616,"](#) June 2016.
- ["Chronic Pain in Alberta: Know Your Case Before Going to Trial,"](#) June 2016.
- ["Prison Lockdowns and Charter Damages: Ogamien v Ontario, 2016 ONSC 3080,"](#) May 2016.
- ["Case Alert: Campbell v. Bruce \(County\), 2016 ONCA 371,"](#) May 2016.
- ["Québec superior court re-ignites debate on the scope of maritime law in Canada,"](#) April 2016.

- ["Ontario Superior Court Again Determines that the "New" Statutory Deductible Applies Retroactively in Motor Vehicle Tort Claims,"](#) April 2016.
- ["Ontario Court Holds the New Deductible Applies Retroactively to MVA Actions,"](#) February 2016.
- ["Municipality found 20% responsible for collision where public transit bus had right of way,"](#) February 2016.
- ["No "Near Miss" on Offers to Settle Timing, but Discretion on Costs Rests with Trial Judge,"](#) January 2016.
- ["Ontario Court Confirms Contractor's Duty To Defend A Municipality In Personal Injury Claims,"](#) January 2016.
- ["Case Summary — Bramer v City of Hamilton, 2015 ONSC 713 \(CanLII\),"](#) December 2015.
- ["Mari-times Newsletter: Canadian Maritime Law from Coast-to-Coast,"](#) December 2015.
- ["Superior Court decision offers helpful guidance in pre-certification communications,"](#) December 2015.

OUR SERVICES

BLG has expertise in a number of specialties and a number of our lawyers work predominantly in one or more of these specialty areas, which include:

- Professional liability including accountants, actuaries, engineers and architects, insurance brokers, lawyers, real estate brokers, investment advisers and financial planners
- Hospital/nursing/medical/malpractice
- Product liability
- Aviation and marine
- Directors' and officers' liability
- Environmental/pollution
- Defamation
- E-commerce
- Fraud
- Life and disability
- Motor vehicle liability and accident benefits
- Municipal/government/police Liability
- Construction/surety/fidelity
- Sexual abuse liability
- Occupiers' liability
- Tavern and host liability
- Property/subrogation

RANKINGS & RECOGNITIONS

The Insurance and Tort Liability Group or its members are recognized:

- In the 2019 edition of *Chambers Canada — Canada's Leading Lawyers for Business*.
- In the 2019 edition of *The Best Lawyers in Canada*®.
- In the 2019 edition of *Legal 500 Canada*
- In the 2018 (and since 2017) edition of *The Canadian Legal Expert*® *Directory*.
- In the 2018 edition of *Benchmark Canada — The Definitive Guide to Canada's Leading Litigation Law Firms and Attorneys*.
- *By the 2017 Benchmark Canada Awards as Insurance Firm of the Year*
- In the 2015 edition of *Who's Who Legal: Canada*.