

## MILNE SELKIRK PRESENTS “YOU AND THE LAW”

### Don't Be Too Quick to Settle an Accident Claim

Sometimes, a person hurt in what appears to be a minor accident unfortunately ends up with serious injuries, resulting in a large court award. A classic example of this was reported not too long ago in one BC case. The young woman involved received close to \$400,000 as compensation for her injuries. The reason was because she ended up developing a severe case of “anorexia nervosa,” an eating disorder. The BC Supreme Court concluded that a car accident triggered her anorexia.

The woman had been rear-ended while stopped at a red light. At first, she experienced dizziness, neck and back pain, stomach pain and vomiting. But her problems worsened, and a month after the accident, she had to be hospitalized for 10 days.

Soon after, she moved to Ontario with her parents. There, a specialist diagnosed her as suffering from an eating disorder.

A year later, her family decided to return to BC. Because of her problems, her parents felt it best that she not drive back across the country with them. Instead, they arranged for her to fly out once they were settled. But while they were away, her weight dropped to a dangerously low 79 pounds and she had to be hospitalized in intensive care in Toronto for 10 days. At trial, she was still receiving treatment for her anorexia and depression.

Her psychiatrist, who saw her for three years after the car accident, admitted he couldn't say for certain that the accident caused her anorexia. But he testified that the accident compounded some previous emotional difficulties and “helped tip the balance.”

Doctors for the defence suggested that her anorexia wasn't triggered by the accident but by previous traumatic events, including the suicide of a close friend, the death of an aunt, and a boyfriend who abused her.

The judge preferred the testimony of her psychiatrist. He concluded that before the car accident, she had a number of “pre-disposing” factors making her susceptible to anorexia. But the trauma of the accident was the trigger that precipitated its onset. In particular, the judge was persuaded by the fact that there was no evidence she would have become anorexic in any event if she hadn't been involved in the accident.

This case illustrates a well-known legal motto: “Don't be too quick to settle.” You want to know the full extent of your injuries and how they affect you before you settle any claim.

This is *not* to say that malingering or exaggerating your injuries will get you a larger settlement. On the contrary. You must prove your injuries through testimony by your doctors and medical evidence. As the person making the claim, you have the legal obligation to prove your injuries and any resulting financial and other losses.

If you've been injured in a traffic or other accident, you should obtain the best possible medical advice and consult a lawyer before signing any papers.

*This article was written by Janice Mucalov, LL.B. with contribution by Lawrence Coulter of MILNE SELKIRK. A version of this was previously published in the Langley Times. Copyright by Janice Mucalov. "You and the Law" is a registered trade-mark. Please call Lawrence Coulter (604-882-5015) if you have any questions or for legal advice.*