

ALLAN ♦ FRANCIS ♦ PRINGLE present

You and the Law

INJURED IN A CAR ACCIDENT? ICBC AND YOU

It happens when you least expect it. One moment you're driving the kids to soccer or going to work, and the next, somebody smashes into you from behind. If you're lucky, you escape a little shaken up. If not, you suffer a whiplash injury - or worse - resulting in hospitalization, lingering pain, lost paycheques and countless visits to the physiotherapist. Quite understandably, you want someone to compensate you for your "damages".

The claims process works like this. You call ICBC and make a report, and an adjuster is appointed. Usually, you'll be asked to sign a document allowing ICBC to examine your medical and employment history. After the adjuster has investigated the accident, he or she may offer an amount of money to settle your claim. You'll then be asked to sign a release saying you agree to the settlement and preventing you from claiming anything more from ICBC and the owner and driver of the vehicle that struck you.

But before you sign anything, know what your legal rights are.

Can ICBC examine *all* your medical and employment records? To determine a fair offer, ICBC needs to look at the information relevant to the accident. But the form you may be asked to sign may allow ICBC to look at your complete history, including events from way back before the accident that you'd rather keep confidential. You don't have to sign this release. Most lawyers only give ICBC copies of any relevant records.

When should you settle? In a minor injury claim, it's not uncommon for an adjuster to make an offer a few weeks after the accident. But even minor neck and back sprains can bother you for much longer than that. Before accepting an offer, you need to know the full extent of your injuries so you can assess whether the offer is really fair. Don't feel pressured to accept an offer that might not accurately reflect your total claim.

Is the money offered a good settlement? It may not be. The adjuster appointed to settle your claim is not *your* adjuster. An ICBC adjuster cannot look out for just your best interests or be independent, because he or she is working for ICBC.

Do you need a lawyer? The only way to ensure someone is handling your claim fairly is to talk to a lawyer. Retaining a lawyer will ensure that all your losses and damages are properly assessed. Most lawyers will give you a free initial consultation.

Remember, too, that having a lawyer doesn't necessarily mean you have to go to court. Most claims with a lawyer are in fact settled; some 90 to 95% never go to trial! For example, you, your lawyer and the ICBC adjuster or lawyer might go to a professional "mediator". Here, both sides explain their positions, and the mediator can help bring about a settlement, often in less than four hours.

If you decide to see a lawyer, act quickly. There are time limits you must follow to protect your claim, and the faster you obtain proper legal advice, the sooner you'll understand your options and the value of your claim.

This column provides information only and must not be relied on for legal advice. Please contact Allan • Francis • Pringle Lawyers for legal advice about your situation.

Lawyer Janice Mucalov, author of this article, has written several popular law books and writes about legal affairs for a variety of publications. "You and the Law" is a registered trade-mark. Copyright by Janice Mucalov.



Thomas D.A. Fletcher Q.C.

If you require assistance in dealing with ICBC, or any other personal injury matter, please contact us for information on how we can help you, or for specific advice.

ALLAN ♦ FRANCIS ♦ PRINGLE
LAWYERS

Vernon 250-542-1177