

W/P

Without Prejudice

Official Journal of the Ontario Insurance Adjusters Association

Vol. 87 • No. 3 • November 2022

"Come Back To Town" OIAA 2022

Provincial Claims Conference



A Full Day of Education, Enrichment and Networking!



The OIAA is a proud
supporter of



RAINBOW
RAILROAD

Follow us on  @OIAAOfficial / Find us on  /  @oiaa_social

Get to know the Kitchener-Waterloo Chapter

Tickets Now On Sale

OIAA 2022 Holiday Party

Wednesday,
November 30, 2022
Sheraton Centre
Toronto

Cocktails at 6:00pm
Seated dinner at 7:30pm
Music and Dancing
to Follow

*Online Registration - Tickets go on sale now!
Please visit www.oiaa.com for more info.*

*Sponsorship opportunities are available, please contact Emily Feindel at
emily.feindel@aig.com*

CONTENTS



8

8 *What is an “accident” as per Schedule?
The Purpose & Causation Test(s)*

16 *No ambiguity: EI benefits are deductible
from IRBs*

34 *Can We Build an Environment that will
Better Prevent Falls on Stairs?*

46 *Paying Attention to the Unspoken:
How to Read Between the Lines*



36

Regular Features

President’s Message	4
OIAA Executive Council	6
Get to Know Your Chapter	32
Final Report.....	54
OIAA Chapter Executive	56
Advertisers’ Index	57

What’s Happening

OIAA 2022 Holiday Party Announcement	2
2022 Toronto Delegate By-Election Results.....	20
2022 Claims Conference Report.....	22
2022 Claims Conference Photos.....	24

Stay Connected

Visit us at www.oiaa.com

@OIAAOfficial

@oiaa_social

@o.i.a.a_

WP Radio Podcast
Apple iTunes: WP Radio
www.soundcloud.com/wpradio

WP TV YouTube channel



Kyle Case, FCIP, CRM
President, OIAA

President's Message

I would like to start this message with a huge thank you to each and every attendee, exhibitor, presenter and volunteer who participated in the Come Back to Town Claims Conference. We had an amazing turn out to all portions of the event, from the CN Tower Kick Off to the Cocktail Dinner Reception at the Intercontinental. It was so great to be back with each of you and I am already looking forward to seeing you again soon.

Now, it seems we are officially in the Autumn season, which for me is often filled with spending as much time outdoors before the winter arrives or, if I am not outside, you would likely find me in the kitchen which is my favorite room of the house.

I grew up on a farm in rural Ontario and was raised by parents that loved to celebrate how much of our meals came right from the property we lived on. My dad would often announce at dinner which items on our plates were grown in the garden, and if we were enjoying a roast chicken, that usually was raised at home too. While my dad loves to farm and grow our own food (which he still does today despite leaving the farm), my mom is a fantastic cook and her passion for cooking was passed onto me at a very young age.

After a stressful day at work, I love getting home (or walking downstairs from my office), turning on some music and starting to prep food. I find the repetition of chopping vegetables to be relaxing, and the entire process of cooking to be a form of art. If you swipe through my phone, you will likely be faced with pictures of meals I have made that I felt were particularly photo worthy.

During the fall and winter, one of my favorite things to make is soup. It is almost always simple, warm and fills the house with great smells. I will often use the bones from a roasted chicken to make homemade stock which can then be used in a variety of ways.

This is my third month writing a President's Message for the WP, and I felt like doing something a little different. Below, is a recipe for one of my favorite fall soups. Feel free to try it if you like.

Sweet Potato Soup

Ingredients:

- 1** tbsp extra virgin olive oil **1** small onion, chopped
- 4** cloves of garlic, minced (or however much you like, I won't judge you for over using garlic)
- 2** large sweet potatoes, chopped **1** carrot, peeled and chopped
- 1** granny smith apple, peeled and chopped
- 4** cups of vegetable stock (or chicken if that is your preference)
- 1** can of coconut milk **1** tbsp curry powder (optional)

Instructions

In a large pot, heat oil then add in onion and garlic and cook for 3-4 minutes over medium heat or until translucent. Next add potatoes, carrot and apple and sauté for 5 minutes. Add in stock, and bring the mixture to a boil. Reduce heat and let simmer for 30 minutes or until the vegetables are cooked. Using a blender or food processor, puree the soup in batches, returning to a pot once complete. Once the entire pot has been pureed, return the pureed soup to a medium heat and add in coconut milk and curry powder, if desired. Enjoy!

Finally, I would like to remind everyone that our annual Holiday Party is back this year and taking place at the Sheraton Centre in Downtown Toronto. Tickets are on sale now on our website at www.oiaa.com. We look forward to seeing you there soon.

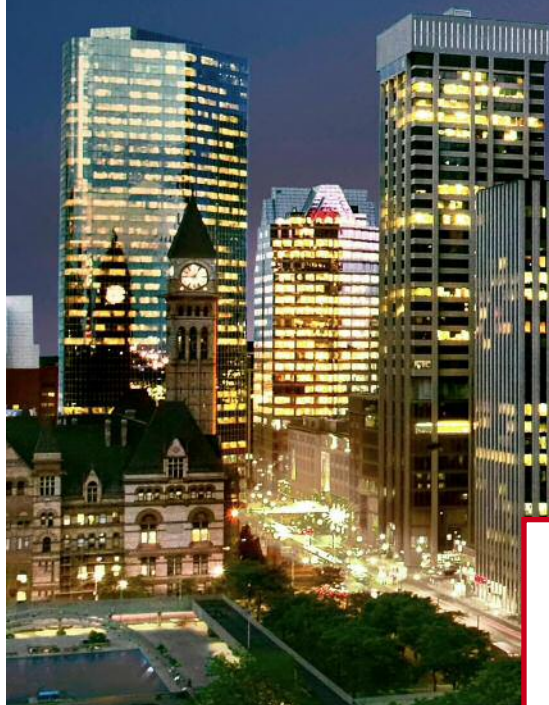
Kyle Case, FCIP, CRM

President, Ontario Insurance Adjusters Association

E-mail: president@oiaa.com



OIAA 2022 Holiday Party



**Sponsorship
Opportunities**
are available, please
contact Emily Feindel at
emily.feindel@aig.com

*Please visit
www.oiaa.com for
more info.*



Diamond (\$3,500) - 5 available

- Preferred seating at the event (tickets for table of 10 included)
- Name Scrolling on the OIAA website as a Diamond Sponsor
- Acknowledgement on the presentation at the event
- Acknowledgement with **logos and links** in the December, January and February WP
- Diamond Social Media Package, may include:
 - Company Logo on Social Media Platforms
 - Recognition as a Diamond Sponsor on platforms once formally a sponsor
 - We will link your company profile into our posts when acknowledging your contributions
 - Recognition posts on social media platforms 3 times a month leading up to the event
 - Recognition posts the day of the event

Platinum (\$1,500) - 5 available

- Name Scrolling on the OIAA website
- Acknowledgement on the presentation at the event
- Acknowledgement with logos in the December, January and February WP
- Platinum Social Media Package, may include:
 - Company Logo on Social Media Platforms
 - Recognition as a Platinum Sponsor on platforms once formally a sponsor
 - We will link your company profile into our posts when acknowledging your contributions
 - Recognition posts on social media platforms 2 times a month leading up to the event
 - Recognition posts the day of the event

Gold (\$1,000) - 5 available

- Acknowledgement on the presentation at the event
- Acknowledgement in the December, January and February WP
- Gold Social Media Package, may include:
 - Company Logo on Social Media Platforms
 - Recognition as a Gold Sponsor on platforms once formally a sponsor
 - Recognition posts on social media platforms once a month leading up to the event.

OIAA - Executive Council 2022 – 2023



KYLE CASE, FCIP, CRM
President
The Co-operators
1-877-682-5246 ext. 272453
E-mail: Kyle_Case@cooperators.ca



TERRY DOHERTY, CFEI
First Vice-President
Aviva Canada Inc.
(613) 386-5513
FAX: 1-866-805-8585
E-mail: terry.doherty@aviva.com



SHAWNA GILLEN, CIP
Second Vice-President
AIG Insurance Company of Canada
(416) 596-3060
E-mail: Shawna.Gillen@aig.com



JENNIFER BROWN, CIP
Treasurer
Economical Insurance
(519) 570-8500 ext. 43375
FAX: (866) 239-0231
E-mail: jennifer.brown@economical.com



BRYAN LEVISAUSKAS
Secretary
Sedgwick Canada Inc.
E-mail: bryan.levisauskas@sedgwick.com



RHU SHERRARD, CIP
Past President
ClaimsPro
(289) 339-1976
FAX: (905) 565-0009
E-mail: rhu.sherrard@scm.ca



JOE CUMMING
Georgian Bay Delegate
The Co-operators Insurance
(705) 712-1503
E-mail: joe_cumming@cooperators.ca



CHRISTINE ANDREWS, CRM, FCIP
Hamilton Delegate
Sage Claims Solutions Inc.
(905) 389-4522
E-mail: Christine@sageclaims.ca



JASON SAUCIER, CIP, ACS
Kawartha/Durham Delegate
QBE - Canada | European Operations
(416) 587-3192
E-mail: Jason.Saucier@ca.qbe.com



CARRIE KEOGH, BA Hons.
Kitchener-Waterloo Delegate
Gore Mutual
1-800-265-8600 ext. 2545
FAX: 1-800-601-9773
E-mail: ckeogh@goremutual.ca



MICHELE FIELD, FCIP
London Delegate
Trillium Mutual Insurance Company
(519) 291-9300 ext. 5713
FAX: (519) 291-1800
E-mail: mfield@trilliummutual.com



CRAIG OZOG, CIP, CFEI
Niagara Delegate
Leading Edge Claims Services Inc.
(289) 897-8676
FAX: (289) 897-8677
E-mail: craig@leadingedgecs.ca



MIKE BOTTAN, CIP, CFEI
Northern Delegate
Crawford and Company Canada Inc.
(705) 647-6781
FAX: (705) 647-6783
E-mail: Mike.bottan@crawco.ca



MARGARET MACKENZIE
Ottawa Delegate
Travelers Canada
(613) 780-6498
E-mail: MAMACKEN@travelers.com



DUNCAN SOUTHALL
Thousand Islands Delegate
P.C.A. Adjusters Limited
(613) 344-2395
FAX: (613) 544-3487
E-mail: duncans@pca-adj.com



CLAIRE RICHARDSON, BA, CIP
Thunder Bay Delegate
Sedgwick
(807) 345-7676 ext.1
E-mail: claire.richardson@sedgwick.com



NATALIE BARROW, CIP
Toronto Delegate
Metro Ontario Inc.



EMILY FEINDEL
Toronto Delegate
AIG Insurance Company of Canada
(416) 596-3917
FAX: (855) 453-1063
E-mail: emily.feindel@aig.com



MADHURI GHOSALKAR, B. Pharm
Toronto Delegate
Claimspro



ZOHAIR M. NASSUR, BBA, AIHL, CertCII, CertCILA, GIE
Toronto Delegate
Sedgwick Canada Inc
(437) 286-1791
E-mail: zohair.nassur@sedgwick.com



WILLIAM HUMPHREY, BA, FCIP, CRM
Windsor Delegate
ClaimsPro
(226) 782-1002
E-mail: william.humphrey@scm.ca

OIAA - Executive Council Committees 2022 – 2023

COMMITTEE

CHAIRPERSON COMMITTEE MEMBERS

COMMUNICATIONS

Without Prejudice EditorialCarrie Keogh.....Jason Saucier, Emily Feindel
Without Prejudice ArticlesEmily Feindel.....Jason Saucier, Carrie Keogh
WP RadioTerry DohertyDuncan Southall
Advertising-Sales - WP, Website, Links

Jason Saucier.....Carrie Keogh, Mike Bottan
Media RelationsDuncan Southall.....Carrie Keogh, Jason Saucier
Website.....Bryan Levisauskas.....Duncan Southall, Michelle Fields
Social Media.....Michelle FieldsCarrie Keogh, Bryan Levisauskas
GTA MembershipZohair Nassur.....Emily Feindel

EDUCATION

Speakers & MeetingsChristine Andrews ..Kyle Case, Michelle Fields
Seminars & Education.....Jennifer Brown.....Rhu Sherrard, All Committee Members
Adjuster TrainingJennifer Brown.....Margaret Mackenzie, Zohair Nassur
Strategic PlanningShawna Gillen.....Jennifer Brown, Bryan Levisauskas
BursaryMike BottanChristine Andrews, Margaret Mackenzie

CONFERENCES

Come Back To Town - 2022 Claims Conference
Kyle CaseJennifer Brown, OIAA All Members
2022 Trade Show @ Come Back to Town Event
Joe CummingJennifer Brown, Shawna Gillen
2023 Career Fair.....Terry DohertyShawna Gillen, Jennifer Brown

COMMITTEE

CHAIRPERSON COMMITTEE MEMBERS

BENEVOLENT & COMMUNITY

Charity & GiftsKyle Case
John E. Lowes - Insurance Institute.....Emily Feindel.....Bryan Levisauskas

INDUSTRY

Licensing.....Zohair NassurMike Bottan, Margaret Mackenzie
Industry LiasonKyle Case

ASSOCIATION OPERATIONS

Chapter Liaison.....Kyle Case
MembershipBryan LevisauskasAll Chapter Delegates
DisciplineRhu Sherrard
Constitution/Incorporation.....Terry Doherty.....Jennifer Brown, Shawna Gillen
Handbook.....Claire Richardson.....Christine Andrews, Jason Saucier
Mentoring (Ways and Means).....Kyle Case
NominatingRhu Sherrard
Vendor Relations/Sponsorship...Shawna GillenJennifer Brown, Bryan Levisauskas

ENTERTAINMENT

Past-Presidents' NightChristine Andrews
Holiday PartyEmily Feindel.....Carrie Keogh, Michelle Fields
Golf TournamentJoe CummingJason Saucier, Mike Bottan
September Kick Off@Come Back To Town
Kyle Case.....Simone Cybulski

FOR THE MAGAZINE



CARRIE KEOGH
Managing Editor



JASON SAUCIER
Co-Editor/Advertising Manager



EMILY FEINDEL
Associate Editor/Articles

If you have any inquiries or comments, please contact us at: wp@oiaa.com

CONTRIBUTORS



Bogdan Miscevic

What is an "accident" as per Schedule? The Purpose & Causation Test(s) (page 8)

Bogdan Miscevic is a bold advocate and a trusted advisor – his goal is to secure favourable results for his clients while providing the most cost-effective legal service. He has been named by The Best Lawyers in Canada for his outstanding expertise in the area of Insurance Law. Prior to co-founding MBBM Lawyers, Bogdan worked for the world's largest multinational law firm where he advised a wide range of international clients on a variety of legal matters.



Julianne Brimfield

No ambiguity: EI benefits are deductible from IRBs (page 16)

Julianne Brimfield is a Partner at Strigberger Brown Armstrong LLP. She has a diverse insurance defence practice and specializes in accident benefits and fraud investigations.

Can We Build an Environment that will Better Prevent Falls on Stairs? (page 34)



Andrew Huntley

Dr. Andrew Huntley is a Slips, Trips and Falls specialist at 30 Forensic Engineering, within the Biomechanics and Personal Injury Assessment group. He has published in some of the top biomechanics and human movement science journals and has taught courses in biomechanics and the neurophysiological control of movement at the University of Guelph and University of Toronto.



Claire Miller

Ms. Claire Miller is an Associate with the Civil/Structural Group at 30 Forensic Engineering. She graduated the University of Western Ontario with a Bachelor of Engineering Science in Civil Engineering, with a Structural option. Claire started her career in the building forensics and rehabilitation industry, performing many field investigations, failure analyses, and repair specifications for existing buildings.



Antonella Di Salvo

Paying Attention to the Unspoken: How to Read Between the Lines (page 46)

Antonella Di Salvo is the Executive Adjudicator at DSB Claims since 2019. Prior to become an independent adjuster in 2000, Antonella had worked for a boutique law firm specializing in Insurance and Litigation type claims. In 2013, Antonella became a Senior Adjudicator for a large Mutual Company. Antonella is a Commissioner of Oath for the Province of Ontario.

WP

Without Prejudice

Official Journal of the
Ontario Insurance
Adjusters Association

"WP" is published monthly except July and August. Every reasonable effort is made to ensure accuracy of articles and advertisements but the Association expressly limits its liability to printing of retraction or correction. The opinions expressed in all articles unless otherwise specified represent the views of the authors and are not necessarily endorsed by the Association, the editorial staff or the Executive Council. Contents of "WP" are copyrighted and may not be reproduced without written consent of the Association. The magazine is distributed free of charge to all active and associate members of the OIAA.

For change of address or enquires regarding distribution, please contact us at:
membership@oiaa.com

For information regarding the OIAA Privacy Policy, please refer to our website at www.oiaa.com
For information on advertising specifications, costs, production of ads or ad placement, please contact Jason Saucier.

For submission of proposed articles please contact Carrie Keogh or Emily Feindel.
E-mail: wp@oiaa.com

ISSN 0833-1278

What is an “accident” as per Schedule? The Purpose & Causation Test(s)

**Legal Analysis of
the LAT decision in [P.F.]
and Economical Mutual
Insurance Co.**





Facts of the Case

In the early morning of August 1, 2017, a fatal motor vehicle accident occurred between a transport truck and a tractor-trailer on Highway 401 (**“fatal tractor-trailer collision”**). The transport truck was carrying flammable liquid, believed to be paint thinner, and tractor-trailer was carrying a chalk-like substance. As a result of the accident, both the flammable liquid and chalk-like substance were scattered all over the highway.

*By Bogdan Miscevic,
Partner, MBBM Lawyers LLP*

What is an “accident” as per Schedule? The Purpose & Causation Test(s)

The applicant worked for a tow truck driving and environmental clean up company. On the day of the accident, the applicant was responsible for cleaning up the two substances that spilled onto the highway. The applicant was also in charge of placing absorbal around the catch basins and operating a vac-truck to clean the flammable liquid from the basins. Lastly, the applicant physically descended into some basins using a ladder or hose to get himself about halfway down the catch basins.



After about 12 hours at the scene of the fatal tractor-trailer collision, the applicant drove back to the office where he started feeling numb and tingly and was told he was slurring his speech. Someone from the office drove him home. The applicant fainted in his house and 911 was called and the paramedics took him to a hospital. At the hospital, the applicant was diagnosed with, among other things, a pneumothorax (collapsed lung). About a year later, the applicant had another collapsed lung which resulted in surgical removal of an inflamed part of his lung which will likely have lasting repercussions on physical activities. The Applicant applied for accident benefits pursuant to the Schedule.

At the hospital, the applicant was diagnosed with, among other things, a pneumothorax (collapsed lung).

Issue(s)

Are the applicant's injuries, sustained on August 1, 2017, from an "accident" as defined in section 3(1) of the *Schedule*?

Scenario 1: Does the fatal tractor-trailer collision qualify as an accident?

Scenario 2: Does the use and operation of the vac-truck qualify as an accident?

Legal Analysis

(i) The Law

In order to be eligible for accident benefits, the applicant must prove the incident meets the definition of an "accident" under subsection 3(1) of the *Schedule*. An accident is defined as "an incident in which the use or operation of an automobile directly causes an impairment..."

The leading case in interpreting the meaning of an "accident" under the *Schedule* is *Amos v Insurance Corporation of British Columbia* ("*Amos*"). In *Amos*, the Supreme Court of Canada set out a two-part test for determining whether an insured person was involved in an "accident" as defined in the *Schedule* and thus entitled to accident benefits:

- (1) The Purpose Test: did the accident result from the ordinary and well-known activities to which automobiles are put?
- (2) The Causation Test: was there some causal relationship between the Applicant's injuries and the ownership, use or operation of the vehicle, or was it merely incident or fortuitous?

Since *Amos* the causation test has been modified to satisfy the strict wording of the *Schedule* that the injuries must be "directly" caused by the use or operation of a motor vehicle. As such, the decisions in *Chisholm v Liberty Mutual Insurance Group* ("*Chisholm*") and *Greenhalgh v ING Halifax Insurance Co.* ("*Greenhalgh*") amended the causation test to meet the *Schedule's* current and narrower definition.



Can it be said that the use or operation of the vehicle was a “direct cause” of the Applicant’s injuries?

As such, the amended causation test should now be read as follows:

(2) The Causation Test:

- a. Was the use or operation of the vehicle a cause of the injuries?
- b. If the use or operation of the vehicle was the cause of the injuries, was there an intervening acts or acts that resulted in the injuries that cannot be said to be part of the “ordinary course of things?” In that sense, can it be said that the use or operation of the vehicle was a “direct cause” of the Applicant’s injuries?

Furthermore, in establishing the (amended) causation test, the case law now considers additional questions to aid in defining whether the incident was an accident. For instance, the “but for” test used to screen out inconsequential details that could not have accounted for the injuries and the “dominant feature” test used for determining the dominant cause of the injuries.

(ii) Analysis

The Respondent argued that acts and regulations should be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the *Schedule* and the intention of the Legislature. In addition, Respondent argued that insurance policies ought to be interpreted in such a way that gives effect to the reasonable expectations to both the insured and the insurer.



a. Scenario 1: Does the fatal tractor-trailer collision qualify as an accident?

Vice-Chair Lester sided with the Respondent's position when rendering her decision. She held that the Applicant did not meet the purpose test because he was not driving, parking, entering, exiting, loading or unloading any of the vehicles that were involved in the subject accident as he merely attended the accident scene after an accident had occurred.

With respect to the causation test, Vice-Chair Lester agreed with the Respondent's position and stated as follows:

"I agree with the [R]espondent that if I was to accept the [A]pplicant's position, then that could potentially open claims for anybody who was impaired by being on the accident scene, including first respondents, or anyone who was injured while passing by the accident to claim for accident benefits. This would not be the intention of the *Schedule* that over the years has narrowed the definition of an accident."

Does the fatal tractor-trailer collision qualify as an accident?

Does the use and operation of the vac-truck qualify as an accident?

b. Scenario 2: Does the use and operation of the vac-truck qualify as an accident?

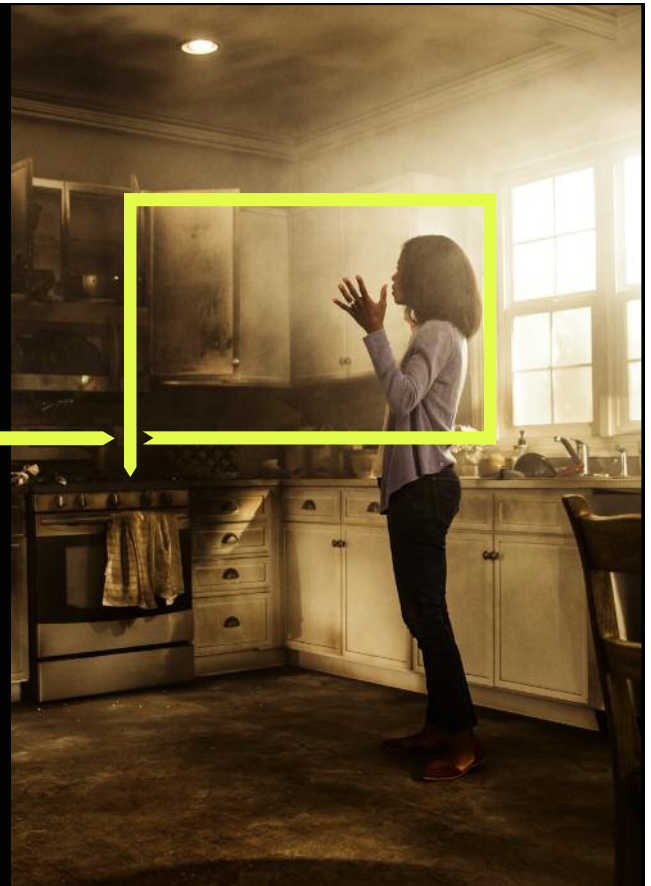
Vice-Chair Lester ruled that the Applicant's use and operation of the vac-truck did satisfy the purpose test as the ordinary and well-known activities of a vac-truck are to vacuum liquids into a basin and transport them to another location.

**IT'S NOT JUST A KITCHEN,
IT'S WHERE THEY GATHER.**

RESTORING PEACE OF MIND.®

ServiceMASTER
Restore®


1-800-RESPOND
ServiceMasterRestore.ca



For an incident to be determined as an accident, the use and operation has to directly cause the impairment.

However, Vice-Chair concluded that the use of the vac-truck did not meet the (amended) causation test. As stated in *Chisholm*, the purpose of the “but for” test is to eliminate factually irrelevant causes for determining the root cause of the impairments. Under the (amended) causation test from *Chisholm* and *Greenhalgh*, it is not enough to show that an automobile was the location giving rise to the injury. Rather, the use or operation of the automobile must have directly caused the injury. As such, it was decided that the use and operation of the vehicle was not the cause of the injuries. In fact, it was exposure to the toxic flammable substance, the chalk-like substance and absorbal for an extended period of time. In addition, the use and operation of the vehicle was not the dominant feature of the accident. The substances did not flow from the use and operation of the vac-truck but from the aftermath of an accident and it was already determined that the aftermath of the fatal tractor-trailer collision cannot create another “accident”.

For an incident to be determined as an accident, the use and operation has to directly cause the impairment. It is not simply being in the vicinity of an accident, or a vehicle that deems an incident an accident, but the use and operation must have a direct causal connection to the impairments. In this case, the use and operation of the vac-truck would be considered ancillary to the impairments and it was the exposure to the three substances over a long period of time that were the dominant feature of the impairments, not the vehicle.



**PERSONALIZED
ALE MANAGEMENT
SOLUTIONS**

SUBMIT A CLAIM:


1.888.212.5815

claims@accomsure.com


www.accomsure.com

Free up precious time for your adjusters to focus on their claims


- Immediate and long-term accommodation arrangements
- Indemnity control
- ALE solutions tailored to your policyholders
- Canadian company assisting Canadians




Hotels




Rental furniture




Rental Homes



Pet boarding



Transportation coordination



Moving services



Conclusion

Therefore, it was concluded that the Applicant has not been able to prove on the balance of probabilities that he meets the purpose and causation test in the first or second scenario. The incident cannot be referred to as an accident and as such the applicant is not entitled to accident benefits.

Bogdan Miscevic of MBBM Lawyers LLP successfully argued this decision before Vice-Chair Chloe Lester at the Licence Appeal Tribunal ("LAT"). It is expected that this decision will serve as one of the benchmarks going forward in LAT decisions dealing with the definition of "accident" as per Statutory Accident Benefits Schedule ("Schedule").

The facts of this case are just as important as the Respondent's legal argument. The full decision can be found here:

<https://www.canlii.org/en/on/onlat/doc/2019/2019canlii119747/2019canlii119747.html?searchUrlHash=AAAAAQAPYm9nZGFuIG1pc2NldmljAAAAAE&resultIndex=2>



Bogdan Miscevic is a bold advocate and a trusted advisor – his goal is to secure favourable results for his clients while providing the most cost-effective legal service. He has been named by The Best Lawyers in Canada for his outstanding expertise in the area of Insurance Law. Prior to co-founding MBBM Lawyers, Bogdan worked for the world's largest multinational law firm where he advised a wide range of international clients on a variety of legal matters.

He specializes in complex commercial and insurance matters, including accident benefits (including loss transfer and priority disputes), motor-vehicle tort, occupiers' and product liability, fraudulent claims and contract disputes.

WP

MEDIATIONS ARBITRATIONS



Paul M. Iacono

Paul has over 45 years of experience in the field of Insurance litigation and dispute resolution. Paul has served as a Deputy Judge of the Toronto Small Claims Court for more than 25 years. In 2015, the International Academy of Mediators bestowed upon him its highest honour, making him a "Knight".



800.856.5154 • booking@adr.ca • adrchambers.com

Follow OIAA on



@o.i.a.a_

No ambiguity: EI benefits are deductible from IRBs





The Divisional Court has recently weighed in on the deductibility of EI benefits from an income replacement benefit owing to an insured person after an accident. The Court held that all EI benefits are deductible as “gross employment income”.

*By Julianne Brimfield,
Partner, Strigberger Brown
Armstrong LLP*

No ambiguity: EI benefits are deductible from IRBs

Section 4(1) of the SABS states that, for the purpose of calculating IRBs, “gross employment income” includes any benefits received under the *Employment Insurance Act*. However, s. 4(1)(a)(i) also states that EI is not deductible post-accident as “other income replacement assistance”. These seemingly incompatible references to EI has caused confusion and disagreement between stakeholders as to whether EI sickness benefits are deductible from IRBs when those benefits are received following an accident.



This issue was dealt with by the LAT in 2021. The hearing Adjudicator, both at the hearing and on reconsideration, determined that EI sickness benefits are not deductible from IRBs. The Adjudicator found that there was ambiguity in the SABS and concluded that EI sickness benefits were more akin to temporary disability benefits under s. 47 of the SABS or “other income replacement assistance”. As such, he concluded that the SABS intended EI sickness to be dealt with in a different way to regular EI or EI maternity benefits, which had previously been found deductible.

In the recent decision of *Aviva v. Spence*, the Divisional Court disagreed with the LAT Adjudicator’s finding and confirmed that all EI should be treated the same way under the SABS as all EI is considered “gross employment income”. The Court found that there was no ambiguity in the SABS and that the sections that reference EI can all be read harmoniously and consistently. The Court went on to state that the SABS was very clear in establishing that any EI benefits received are to be treated as gross employment income, both for the purpose of calculating IRB entitlement under s. 7(2) and for deductions under s. 7(3).

The Court pointed out that there is nothing in the definition of “gross employment income” that requires active employment and that, by definition, EI is paid “as a result of being employed”. The Court also confirmed that EI sickness benefits are not temporary disability benefits under s. 47, particularly in this case, as they were being paid to the claimant in connection with the subject accident (and notably, EI is also specifically excluded from the defini-



tion of “temporary disability benefit” in s. 47(3)).

Overall, this decision provides clarity to insurers and claimants alike regarding the interplay of EI and IRBs: in all claims, 70% of any EI payment paid to a claimant post-accident is deductible from IRBs.

See: *Aviva Insurance Company of Canada v. Spence*, 2022 ONSC 4988 (CanLII)



Julianne Brimfield is a Partner at Strigberger Brown Armstrong LLP. She has a diverse insurance defence practice and specializes in accident benefits and fraud investigations.

WP

Follow OIAA on



@OIAAOfficial

2022 OIAA Toronto Delegate By-Election

The OIAA is very pleased to announce the election of two Toronto Delegates: **Natalie Barrow** of Metro Ontario Inc. will fill a two-year term ending July 31, 2024 and **Madhuri Ghosalkar** of Claimspro will fill a one-year term ending July 31, 2023.

Congratulations and welcome to the OIAA executive team!



Natalie Barrow

I got to write my own career pathway and actually do the things I set out to do. It is an honour to be chosen for the OIAA Toronto Delegate.

I would like to thank the OIAA for making me feel so welcome.

I did not come this far without my family, my love, my reasons, my support. Thank you.

I am really excited to be on this journey and continue to meet all the amazing individuals that make up our industry.

I look forward to my future with OIAA!!



Madhuri Ghosalkar

WP - Call for Articles

Submit an article to **WP** Magazine for publication consideration. Share your industry knowledge and information with more than 2,500 active adjusters.

Accompany your article with advertising to effectively maximize your business opportunities. Full-time **WP** advertisers will get the benefit of a rolling banner on our OIAA website. All advertisers will get the added bonus of one shout-out on each of our OIAA social media networks being Facebook, Twitter and Instagram for each month they put an advertisement in the **WP**.



Any inquiries and information regarding promoting your business while supporting the OIAA, please contact us at: **wp@oiaa.com**

Carrie Keogh, **WP** Managing Editor

Jason Saucier, **WP** Co-Editor/Advertising Manager

Emily Feindel, **WP** Associate Editor/Articles



XPERA RISK MITIGATION & INVESTIGATION

You expect **high performance**. At Xpera, we deliver. Advanced technology. Innovative solutions. Over **500 investigators** and **24 offices** across Canada.

Property & Casualty Insurance Investigations

Surveillance | Photographic and Video Evidence | Xpera Forensic Imaging Services (XFIS) Technology | Open Source Intelligence (OSINT) | Witness Interviews and Statements | Litigation Support and Trial Preparation | Financial Background and Motive Analysis | Special Investigations Unit | Location of Individuals | Primary Insurance

xpera.ca

888 842 8112



EMERGENCY SECURITY MANAGEMENT

Security concerns impact your business **24/7**. You need a provider that moves as fast as you do. That's why our specialized team of security professionals is available anywhere, anytime. With the latest technology, and boots on the ground across Canada, ESM is **ready when you are**.

Site Security | Disaster Scene - Fire Watch | Catastrophic Event Response | Visitor Management Technology | **24/7/365 Live Answer Emergency Number** | WHMIS, CPR, NFPA 601 fire-watch scene security trained.

esmsolutions.ca

888 842 8109



"Come Back To Town"

OIAA 2022 Provincial Claims Conference

October 4 & 5, 2022

Report by Kyle Case, FCIP, CRM, President, OIAA

I want to start by thanking everyone that participated in our Come Back to Town Claims Conference. The Provincial Council of the OIAA began planning this event in the Summer of 2021 with the hopes that the COVID Pandemic would be well behind us and that we could once again be together with our industry friends to network, collaborate and learn together again. I am happy to share that the event was a success with over 1,000 attendees throughout the day.

The Come Back to Town Claims Conference kicked off on Tuesday October 4th at the CN Tower. We were at the top of the city, enjoying amazing views and food while having rewarding conversations with industry colleagues. It was truly special to be able to welcome everyone back to the OIAA at this iconic location. It is important for me to note that this would not have been possible without the support of our Kick-off Sponsors: Beardwinter, Davis Martindale, U3S and our Key Media Sponsor, Canadian Underwriter.

One of the main purposes of the OIAA is to provide continued educational opportunities to our members, and this is often achieved via the annual Claims Conference. I am thankful that we had 6 amazing seminars throughout the day covering multiple claims disciplines. A huge thank you to Philippa Samworth, Ted Key, Dr. Dennis Tuff, Ross Huartt, Wilf Cassidy, and Tom Streek for sharing your knowledge and experience with our conference attendees! I would also like to once again thank our Seminar Sponsor, Aberdeen Investigations.

The Tradeshow floor was busy and jam packed throughout the day with exhibitors and attendees mingling, reconnecting with old contacts and building connections with new. It is rewarding for the OIAA Executive to help provide a space for these important relationships to be established, and maintained. Thank you to each of the exhibitors that had a booth this year, we hope you enjoyed the experience and we will be excited to welcome you back again soon. We know how long the day can be on the tradeshow floor, and after being on your feet for a few hours, a bit of coffee or some food goes a long way. Thank you for Bell Temple,

Davis Martindale, and MBBM Lawyers for keeping everyone caffeinated as this year's Coffee Break Sponsors. I would also like to thank ADS, AGS, ARS, U3S, Newtron Group and Winmar for sponsoring the Light Lunch portion of the day.

The Come Back to Town Claims Conference wrapped up with a fantastic cocktail reception and dinner at the Intercontinental. We were joined by our Key Note Speaker Stu Saunders who shared how micro decisions can have macro impact, especially when it comes to making someone's day. We work in an industry that helps people in some of their worst moments in life, and Stu's message really resonated with him, and I hope it did with you as well! Stu welcomes contact from anyone that has questions or would be interested in engaging further via email at stu@ylcc.com.

Finally, I would like to close by thanking the entire executive council of the OIAA for the effort put into planning and running such a fantastic event. Everyone on the OIAA Executive Council is a volunteer, with a busy work and family life. Adding on extra responsibilities such as sitting on our Council requires a lot of extra work. It would not be possible to run our events or the Association without each member around this table. I specifically would like to recognize Jennifer Brown for leading the conference registration; Joe Cumming for his work in planning the trade show; Rhu Sherrard for organizing our fantastic speakers; Terry Doherty for ensuring the October 5th Dinner and Entertainment was a success; and finally Simone Cybulski for planning the CN Tower Kick Off. I could not have done this alone, and I am sincerely grateful for to everyone.

I look forward to connecting again at our annual Holiday Party taking place on November 30th at the Sheraton Centre in Downtown Toronto.

All the best,

Kyle Case, FCIP, CRM
President, OIAA



The OIAA would like to thank the following sponsors for their support.



"Come Back To Town"

OIAA 2022 Provincial Claims Conference

October 4, 2022 - Kick off at the CN Tower

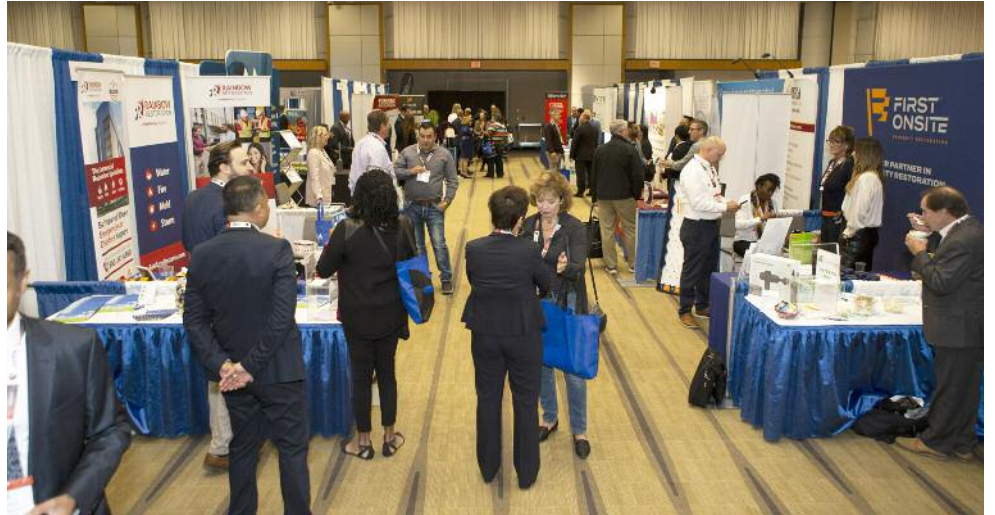




"Come Back To Town"

OIAA 2022 Provincial Claims Conference

October 5, 2022 - Trade Show & Seminars









See more photos from the 2022 Claims Conference in the next issue of WP.

THE WP RADIO

PODCAST NETWORK

As 2022 gets underway, we would like to thank every supporter of the OIAA and listener of WP Radio over the last year. With the 2021 season commencing with a ton of great content from Arcon Forensic Engineers and the SCM Group of Companies, we can't thank them enough for their continued support of the OIAA and WP Radio's programming. Without companies like them, the content produced over the last year wouldn't be possible and the people behind these brands are all critical to WP Radio's success.

We are excited to announce that WP Radio has an exciting new roster of podcasts coming to your ears in 2022. We've been working behind the scenes with a variety of brands on putting together some really great plans in place, to make sure the content and interviews will continue to captivate and educate listeners.

Leading the network into a new season of podcasts, WP Radio will be focused on featuring brands that you may not have heard of, but who are essential to the Ontario insurance industry. These may come in the form of interviews from founders of companies, or company spotlights on emerging brands that all play important roles in their spaces.

WP Radio also still has options for brands to sponsor podcasts for the upcoming season. If you would like your company to be featured on the network, please reach out at your earliest convenience to speak about show opportunities.

We can't thank everyone enough for their continued support of WP Radio and look forward to seeing you all in 2022. Stay tuned for the latest updates by subscribing to WP Radio wherever you listen to podcasts.

For more information on sponsoring a show, please contact Terry at terry.doherty@aviva.com

OUR DIGITAL REACH

458

FACEBOOK FOLLOWERS

1,255

TWITTER FOLLOWERS

1,500+

UNIQUE WP RADIO LISTENERS

2,816+

LINKEDIN CONNECTIONS

AND GROWING...



Get to know your Chapter

OIAA Kitchener-Waterloo Chapter

Hope everyone had a great summer and the transition to our unpredictable fall in Canada hasn't been too much of a challenge.

To introduce myself - my name is Kayla Helmond and I am the current president of our Kitchener-Waterloo Chapter.

I am a multi-lines independent adjuster with Crawford & Company and I have been with the company since 2014.

As we appear to finally be returning to some sense of 'normal', we have shifted our focus to various objectives moving forward with a more typical year.

The KW and all other chapters have done an amazing job of showing resiliency during a few years of unprecedented times. We have maintained excitement of various events and have consistently had turnout. Now we can focus on preparing some great ideas to keep the adjusting community and its members interested and excited all while being positive promoters of the organization to garnish more attention. We are looking forward to welcoming back our industry members to the exciting local and provincial events scheduled for the 2022-2023 year.

I am happy to announce that our Charity for the year is "Ray of Hope", based in Kitchener, Ontario. Ray of Hope works to meet the physical, emotional, and spiritual needs of vulnerable people in Waterloo Region. They provide hot, nourishing meals, a safe, supportive sanctuary and access to life-changing services along with guidance in overcoming life's challenges. We feel this charity does an amazing job supporting the needs of our local community and beyond. We are very excited to be working on volunteering opportunities through them as well.

We have a great team this year in our local chapter and I would like to thank each member for their dedication and resilience.

Looking forward to seeing everyone again in the near future!

Kayla Helmond, CIP
President, Georgian Bay Chapter

The Kitchener-Waterloo Chapter hosted the 2022 John McHugh Memorial Golf Classic on June 22, 2022.



Photos by Larrek Investigations. See more photos on page 52.

Can We Build an Environment that will Better Prevent Falls on Stairs?





Falls resulting in injury account for approximately \$8.6 billion in direct and indirect costs in Canada each year¹, in addition to the further unquantifiable negative impacts on quality of life that they can cause. Any fall consists of two primary considerations: how was the person using the environment (what they were doing) and what role did the environment play (where they were doing it). How someone perceives and interacts with the built environment will play a direct role in their risk of falling.

*By Andrew Huntley, B.Sc., Ph.D. and
Claire Miller, B.E.S.C., P.Eng.,
30 Forensic Engineering*

Can We Build an Environment that will Better Prevent Falls on Stairs?

How often have you walked more cautiously when you know the floor is slippery, or held onto a handrail extra tightly when walking down a set of steep, old stairs? It is both our behaviour and the aspects of the built environment that we need to successfully negotiate daily to maintain our safety.

Building codes have been developed across Canada to introduce standardized regulations for the design and construction of buildings, although codes vary across the country. Add in that prior to standardized regulations being introduced, construction could vary widely from one building to the next.



The National Building Code of Canada (NBCC) was first introduced in 1941 and was intended to standardize construction requirements across Canada. However, there was no requirement for provinces and municipalities to adopt the NBCC. Hence, local municipalities could either adopt the NBCC in part or whole as their building by-law or choose to create their own building by-law. So, it was never universally adopted and relied upon throughout the country. The first version of the NBCC was revised with many subsequent editions that provided more stringent code requirements.

Today British Columbia, Alberta, Ontario, and Quebec have all developed their own provincial building codes, whereas the remainder of the provinces and territories either adopted the NBCC, in part or in whole as noted above, or created their own building by-law.

The first version of the Ontario Building Code (OBC) came into effect in 1975. British Columbia, Alberta and Quebec followed suit years later and introduced their own building codes. Similar to the NBCC, provincial codes continue to be revised, and new editions are continually published with updated requirements to ultimately provide a safer built environment.

However, the building codes are not retroactively applicable to existing buildings unless extensive renovations are undertaken. Often in older buildings, conditions exist today that would not be considered currently acceptable but are allowed. It should also be noted that while building code updates typically follow the science and research, updates and revisions to codes consistently lag behind the science, and ongoing revisions are critical to ensure codes do not lag

too far behind.

Stairs are a common feature that we navigate daily. Stairs have also been identified as one of the most hazardous locations in the home for falls.

In Ontario alone, falls on stairs accounted for almost twenty-five thousand emergency department visits in seniors between the years 2014 and 2015. ² Research has shown that the likelihood of falls significantly decreases when the tread depth of steps are 10 in. (255 mm) or greater. ³ This research, along with research from the Toronto Rehabilitation Institute demonstrating that longer stair runs help people better maintain their balance ⁴, resulted in the NBCC revising its requirements for tread depths. With the publication of the 2015 version of the NBCC, the minimum allow-

Often in older buildings, conditions exist today that would not be considered currently acceptable but are allowed.

Not all accountants are MDD Forensic Accountants.



With 5 offices in Ontario, our independent experts in economic damage quantification are available to assist locally and across Canada.

To find out how we can help you, contact us today.

Matt Mulholland
CPA, CMA, DIFA, CFF
mmulholland@mdd.com

Brad Ebel CPA, CA, CFE, CFF
bebel@mdd.com

Ephraim Stulberg
CPA, CA, CBV, CFF
estulberg@mdd.com
Toronto: 416.366.4968

Conor Paxton
CPA, CA, CBV, CFE, CFF
cpaxton@mdd.com

Kingston: 613.389.3176
Ottawa: 613.366.6008

Martin Pavelic CPA, CMA, CFF
mpavelic@mdd.com
Hamilton: 905.523.6363

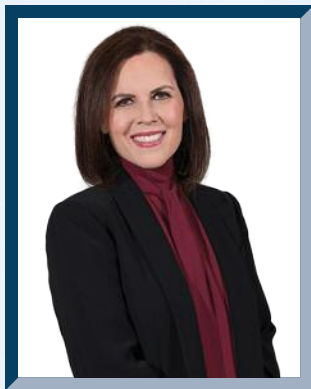
Sheri Gallant CPA, CMA, CFF
sgallant@mdd.com
London: 519.432.1123



> mdd.com

VANCOUVER • CALGARY • EDMONTON • WINNIPEG • LONDON • HAMILTON • TORONTO • KINGSTON • OTTAWA • MONTREAL • HALIFAX

**PENNY
GEORGIOUDIS**
LAWYER / MEDIATOR



Penny is a qualified mediator through her training at the Canadian Dispute Resolution Corporation, the Advanced Mediation Workshop at Osgoode Hall Law School, and the Arbitration and Mediation Institute of Ontario.

Mediating for you

- Personal Injury
- Occupiers' Liability
- Property and Subrogation
- Long-Term Disability Claims
- Institutional Sexual Liability Claims

**Contact Kelly Mesquita
for bookings**

416.306.1746

kmesquita@beardwinter.com



BEARDWINTER LLP

Follow OIAA on



@OIAAOfficial

able tread depth for steps in houses was increased from 9-1/4 in. (235 mm) to 10 in. (255 mm). Similarly, the 2018 version of the BCBC changed the minimum required tread depth to 10 in. (255 mm). Interestingly, this amendment has not been made to the OBC to date, with minimum required tread depths still at 9-1/4 in. (235 mm); however, an increase in minimum tread depth is set to come into effect in 2022. This is a great example of the lag time for code updates with respect to the science, and the inconsistency in updates to standards across the country.

While this change is a great example of how updating the requirements for the built environment may help decrease the risk of falls, it is important to remember that building codes are not intended to be retroactively applied. Simply put,

buildings constructed before the issuance of these codes do not need to be updated or renovated to meet the requirements of newer standards – it is just not feasible. Does that mean that people are more likely to fall on older (but allowable) construction? Yes, it does. This is a particularly relevant concern given our aging population.

Changes to stairway variability have also evolved to help pedestrians successfully ascend and descend stairs. Canadian building codes have always required risers and treads in any one stairway to be “uniform”. However, earlier versions of building codes did not specify what “uniformity” actually meant, so it was implied that normal construction tolerances, which were historically considered to be 3/8 in. (9.5 mm) or less for stairways, were acceptable. When the 2006 version of the OBC





was published, uniformity requirements were finally specified in Ontario, and a maximum difference of 1/4 in. (6 mm) was permitted between all risers and treads in a stairway. This represents a significant reduction in tolerance relative to the prior accepted definition. The latter 2012 version of the OBC further revised this to allow for a maximum tolerance of 1/5 in. (5 mm) between adjacent treads or risers, and 2/5 in. (10 mm) difference in risers and treads in a whole stairway. We see these same requirements in the 2018 BCBC. This is another great example of codes playing catch up to the science.

These changes, which resulted in lower variability between riser heights and tread depths, were important in increasing the safety of pedestrians and the prevention of falls. Research has shown that our foot clearances are lowest in the middle of stairways compared to the transitions onto and off of stairways 5 6. This is because following our transition onto a stairway, our foot movements enter a repeatable and predictable pattern, like our leg movements during walking on level ground. So, while changes in riser

heights can pose varying degrees of risk to balance depending on if they are located at transition steps or at mid-flight of a stairway, the more stringent uniformity requirements of the latest versions of Canadian building codes help to address the known behaviour of stair users.

Another aspect of stairs that has evolved over time includes handrail heights. When we look at the earlier versions of the NBCC and the 1975 version of the OBC, the height of handrails in public accessible buildings were required to be between 32 in. (813 mm) and 36 in. (914 mm). These height requirements have been amended over time and now, the 2012 OBC specifies that handrails must be between 34 in. (865 mm) and 38 in. (965 mm) in height. Research that explores the application of force in relation to handrail height when faced with balance loss not only demonstrated that physical demands decreased as handrail height increased, but that participants were able to withstand larger disturbances to their balance with a higher railing height 7. Increases in handrail heights have therefore helped ensure the safety of pedestrians when using stairways.

KENNETH J. BIALKOWSKI, LLB

ARBITRATOR
PRIORITY AND LOSS TRANSFER DISPUTES



Ken is currently exclusively focused on priority/loss transfer arbitrations and mediations in Ontario. Clients benefit from Ken's extensive experience in personal injury and insurance litigation.

For arbitration or mediation bookings contact:

Vanessa De Sa
vdesa@beardwinter.com

Kenneth J. Bialkowski
kbialkow@beardwinter.com
416-593-5555



BEARDWINTER LLP

Find OIAA on



Facebook®

***Increases in handrail heights
have therefore helped ensure
the safety of pedestrians
when using stairways.***

The 2018 BCBC even allows handrails as high as 42 in. (1070 mm), and the OBC is set to revise maximum handrail heights to 42 in. (1070 mm) in 2020.

With the ongoing evolution of building codes and standards, it is important to keep both aspects of the built environment and the mechanics of falling in mind when attempting to understand how and why someone fell. Given our aging population, the rate at which Canadian codes are updated to meet the science is essential for the design and building of environments that are safer to use than ever before.

¹ <https://www.canada.ca/en/public-health/services/injury-prevention/cost-injury-canada.html>

² <https://www.fallpreventionmonth.ca/uploads/2018%20Toolkit%20Fi>

[les/Ontario%20falls%20info-graphic.pdf](https://www.fallpreventionmonth.ca/uploads/2018%20Toolkit%20Filles/Ontario%20falls%20info-graphic.pdf).

³ Wright, M., & Roys, M. (2008). Accidents on English dwelling stairs are directly related to going size. *Contemporary Ergonomics*, 2008, 632.

⁴ Novak, A. C., Komisar, V., Maki, B. E., & Fernie, G. R. (2016). Age-related differences in dynamic balance control during stair descent and effect of varying step geometry. *Applied ergonomics*, 52, 275-284.

⁵ Hamel, K. A., Okita, N., Higginson, J. S., & Cavanagh, P. R. (2005). Foot clearance during stair descent: effects of age and illumination. *Gait & Posture*, 21(2), 135-140.

⁶ Ajisafe, T., Wu, J., & Geil, M. (2017). Toe spatiotemporal differences between transition steps when ascending shorter flight

Does the Private Investigator You Hired Have a CPIO Professional Designation?

Here's Why They Should:

The Council of Professional Investigators Ontario (CPIO) is a non-profit association of Professional & Private Investigators and the first organization in Canada to develop a Three-Tier Professional Designation System tailored exclusively to Ontario licenced Private Investigators.

CPIO Professional Designation Holders have:

- ◆ Continuing education through training courses relevant to the Private Investigation industry
- ◆ Requirement to attain 20 CPE Credits to maintain their Designations
- ◆ Robust investigation knowledge and skills
- ◆ Verified experience working as a Private Investigator



Discover the CPIO, the Private Investigation industry's best kept secret, at www.cpiontario.ca or contact info@cpiontario.ca for more information.

Follow the CPIO on:





 CANADA

The fire & water - cleanup & restoration specialists of SERVPRO® are proud to call Canada home. So when the things that matter most are on the line, make sure we are too by calling 1-800-SERVPRO or visiting servpro.com.



Fire



Water



Commercial



Construction



Vandalism + Graffiti
Removal



Document Restoration



Biohazard



Storm Disaster



Mold

LOCATIONS ACROSS CANADA. FRANCHISE OPPORTUNITIES AVAILABLE.

Servpro Industries (Canada) ULC • 7111 Syntex Drive, 3rd Floor • Mississauga, ON • L5N 8C3

Services in Canada provided by Independently Owned and Operated Franchises of Servpro Industries (Canada) ULC.

stairways of different heights. Applied ergonomics, 59, 203-208.

- ⁷ Komisar, V., Nirmalanathan, K., King, E. C., Maki, B. E., & Novak, A. C. (2019). Use of handrails for balance and stability: Characterizing loading profiles in younger adults. Applied ergonomics, 76, 20-31.

cal control of movement at the University of Guelph and University of Toronto. He remains active in the research and teaching community, participating in ongoing projects at the Toronto Rehabilitation Institute examining the effectiveness of rehabilitative balance programs, and exploring handrail dimension impacts on graspability and effectiveness in preventing falls.

Engineering, with a Structural option. Claire started her career in the building forensics and rehabilitation industry, performing many field investigations, failure analyses, and repair specifications for existing buildings. Since joining 30 Forensic Engineering, Claire has conducted investigations involving compliance with building codes and standards and building failures.

WP



Dr. Andrew Huntley is a Slips, Trips and Falls specialist at 30 Forensic Engineering, within the Biomechanics and Personal Injury Assessment group. He has published in some of the top biomechanics and human movement science journals and has taught courses in biomechanics and the neurophysiology-



Ms. Claire Miller is an Associate with the Civil/Structural Group at 30 Forensic Engineering. She graduated the University of Western Ontario with a Bachelor of Engineering Science in Civil



588 Edward Avenue, Unit 49
Richmond Hill, ON L4C 9Y6
P 905-737-0111 F 905-737-4046
(Guelph Region) P 519-827-1757

Professional Engineers experienced in dependable service to the Insurance Industry

- Forensic and Building Science Engineering
- Structural Investigation and Design
- Permit Drawings and Specifications
- Code Compliance Review
- Cause Analysis
- Litigation and Appraisal Support



- Fire / Explosion / Vibration Damage
- Vehicle Impact
- Building Failures / Collapses
- Leakage / Condensation
- Slip / Trip and Falls
- Stormwater Management / Drainage
- Wind / Tornado Damage



PRACTICAL APPROACHES ■ SENSIBLE RESULTS

www.brownbeattie.com





Rapid City Transportation

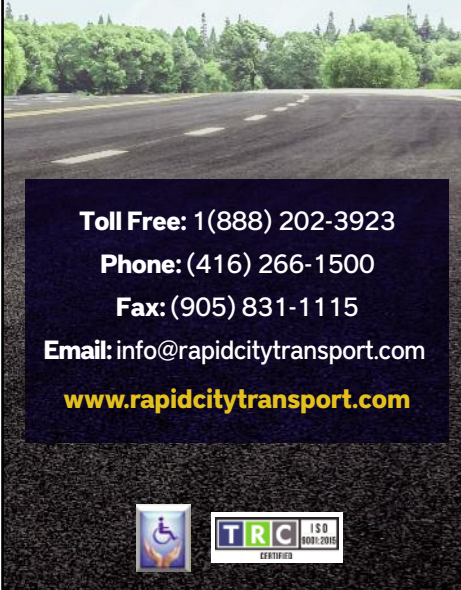
O/B AutoLux Ltd.

Exceeding client's expectations

with a level of excellence unparalleled in the industry since 1994

End-to-End, Personalized Services including Transportation

for individuals across Ontario who require special care and attention before, during, and after the ride.



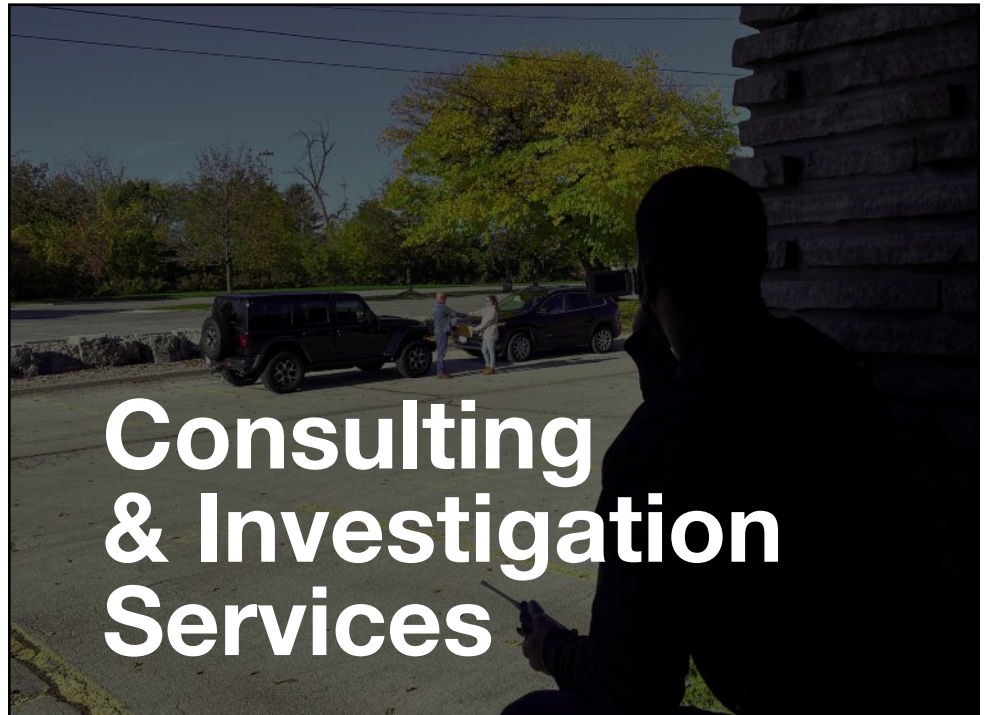
Toll Free: 1(888) 202-3923

Phone: (416) 266-1500

Fax: (905) 831-1115

Email: info@rapidcitytransport.com

www.rapidcitytransport.com



Consulting & Investigation Services

OUR CONSULTING & INVESTIGATIONS EXPERTS OFFER PROFESSIONAL AND RELIABLE SERVICES TO HELP YOU NAVIGATE THE CHALLENGING SITUATIONS THAT ARISE.

- National & international coverage
- Personal & commercial lines investigation & surveillance
- Litigation support
- Accident reconstruction
- Dedicated Cargo Crime Unit
- Manned 24/7 national hotline

garda.com/investigations

For immediate assistance,
contact us: 416-915-9500 #3400
IntakeInvestigation@garda.com

GARDAWORLD

Find OIAA on



Facebook®

**FOR YOUR AD
IN THIS MAGAZINE**

Please Contact: Jason Saucier

Tel: (416) 682-5991

E-mail: Jason.Saucier@ca.qbe.com



Accountants With Personality![®]

Advisory Services

*Ontario's Leader in Providing
Insurance & Litigation Accounting Services*

- ✓ SABS Claims
- ✓ Commercial Losses
- ✓ Dependency Analysis
- ✓ Fraud Investigation
- ✓ Economic Loss Claims
- ✓ Litigation Experts



Jessy Hawley CPA, CGA, CFF, CIP

jhawley@davismartindale.com

1.800.668.2167 x 1218



Gary Phelps CPA, CMA, CFF, CFE

gphelps@davismartindale.com

1.800.668.2167 x 1229

London - 785 Wonderland Road South, Suite 220, ON N6K 1M6 | t: 519.673.3141

Toronto - 20 Bay Street, Suite 1100, ON M5J 2N8 | t: 416.840.8050

davismartindale.com



**MITIGATE YOUR
COMMERCIAL LOSSES.**

**CALL
THE SALVAGE
EXPERTS
TO EVALUATE
YOUR CLAIM
TODAY!**



**CONSOLIDATED
SALVAGE CO. LTD.**

(905) 276-4230
www.consolidatedsalvage.com



NO SUBBING OUT

We self-perform all of our services. This guarantees consistent quality.



FLEXIBILITY

We work to suit your schedule even if it means working after-hours and over the weekend.



TRANSPARENCY

Constant communication and updates throughout every project, including digital site reports.



SAFETY

There is no project worth breaking up a family for. Our focus on COR and beyond is to ensure that never happens.

PROBLEM SOLVING MEETS CONSTRUCTION



PROTECT



REPAIR



CONSTRUCT

Building Envelope Repairs



Institutional



Commercial



Industrial



Environmental Spill Response



Remote Location Access



Brownfield Remediation



Confined Space Work



In-Situ Remediation



Waste Management



Industrial Cleaning



Site Re-instatement

Below Grade Tank Removal



Marine Spills



Airport Spills



Roadway Spills



CONTACT US

1.866.nusens.0

(6 8 7 - 3 6 7 0)

customerservice@nusens.ca

24/7 Emergency Services



Paying Attention to the Unspoken: How to Read Between the Lines



When managing a claim, it's important to approach policy holders with empathy, understand that they are under stress, and make them feel as comfortable as possible when we ask them for details.

Sometimes it can be challenging for a policy holder to "open up" right away, when they are under an extreme amount of stress – which is why it's important to pay attention to the unspoken, or "read between the lines."



*By Antonella I. Di Salvo,
Executive Adjudicator, DSB Claims*

Paying Attention to the Unspoken: How to Read Between the Lines

When I'm seeking information, I find that it's often best to ask a simple, open-ended question that invites a plethora of information. For example, asking a policy holder to "tell me about the incident" can invite a lot of conversation; and while the policy holder speaks, it's important for me to remain silent, read the policy holder's body language, and let them talk it out. When the policy holder stops talking, I just prompt them to "continue," while I carry on with my observations.



Oftentimes, the most accurate rendition of events is more easily remembered than the misconceptions that can crop up when someone is experiencing a high level of stress. This is because we are chemically programmed to remember the “bare bones” of what happened better than the details our minds may come up with to “fill in the blanks” while we’re under pressure.

Important Indicators:

When people are recalling “real” events, they glance to the left (where memories are stored in the brain). Conversely, when they glance to the right, they’re being creative, which usually happens when someone is nervous and feeling like they have to “fill in the blanks” (even when it’s not necessary).

If policy holders can’t look at me directly while they are speaking, it’s usually a sign that they are uncomfortable; and this triggers my instinct to be as gentle as possible by simply asking a few more questions in a different way, to get a better handle on what happened.

When people stand with their arms folded, this is a sign that they feel like they have to guard something. They may be feeling nervous, which makes them less “open.” If this is the case, I just wait for the policy holder to drop his or her arms. I would never mention anything to policy holders about their body language; however I will change my line of questioning, to encourage the most accurate version of the story to emerge from our conversation.

We never want policy holders to feel like the truth of their story is being questioned, because that is not our purpose. We are here to make them feel at ease, and comfortable throughout

We are Global Resolutions

Dispute Resolution Experts



GlobalResolutions

45 St. Nicholas St., Toronto, ON T: 416 964 7497 www.globalresolutions.com

wm Williams
Meaden & Moore

Forensic
Accountants



Forensic Accounting expertise in
Business Interruption Losses
Accident Benefits
Educational Seminars
Expert Witness/Appraiser
Inventory Losses
Fidelity Bonds

Learn more about our expertise • wmmi.ca

Visit wmmi.ca/IRBcalc to use our Online IRB / Interest Calculator.



Supporting the immediate needs of adjusters and their policy holders, for over 20 years.

premieresuites.com



24/7 Reservations



Cleaned & Disinfected



Insured & Accredited



Available Inventory

24/7 Housing Solutions

As Canada's largest provider of fully furnished condos & townhomes, our team is here to determine the housing solution tailored to your policy holder's immediate needs.



Housing solutions in proximity to your client's home or work are prioritized.

Adjuster Support

- 24/7 access to live agents
- Ease of process
- Cross-Canada coverage
- Available inventory
- Varied portfolio
- 1, 2, 3 & 4 bedroom solutions
- Regional expertise

Amenities

- Fully equipped kitchens
- Spacious living areas
- Complimentary wifi & cable
- Designated workspaces
- Bi-weekly housekeeping
- Pet friendly options*
- In-suite laundry*

*Not a guaranteed feature for all properties



1.866.722.3080



insurance@premieresuites.com

the claims process.

We are not here to judge policy holders. We are here to listen to everything they have to say, and believe them. We walk into a claim situation with an open mind, and we trust the insureds. We trust that they are telling us the details of the incident in the best way they can, and we want them to trust us to help them recover their loss.

If policy holders hesitate to tell us everything that happened because they are nervous or intimidated, our ability to assist them becomes limited – and this is why we must pay attention to the unspoken. After an incident many people are scared, and they tend to feel like they have to protect themselves; but we are not the enemy. We are here to help, and we want policy holders to feel supported.

When my instincts tell me to pay attention to the unspoken (and ask a few more questions), I am not doing this to corner the policy holder; my intention is to simply uncover the accuracies that will put us on the best path to recovering what has been lost after an incident.

In order to truly help the policy holder (and work in the best interests of our brokerage partners + insurance carriers), it's important to unearth all the details – and this can only be done by interviewing everyone in a gentle manner. Oftentimes, paying attention to the unspoken while comforting the policy holder is a vital component to delivering the best claim experience possible for all parties involved.

For more articles, visit us at:
<https://www.dsbclaims.com/dsb-news>



Antonella Di Salvo is the Executive Adjudicator at DSB Claims since 2019. Prior to become an independent adjuster in 2000, Antonella had worked for a boutique law firm specializing in Insurance and Litigation type claims. In 2013, Antonella became a Senior Adjudicator for a large Mutual Company. Antonella is a Commissioner of Oath for the Province of Ontario, she is also planning on completing her CIP in the near future.

WP

FOR YOUR AD IN THIS MAGAZINE

**Please Contact:
Jason Saucier**

Tel: (416) 682-5991

**E-mail:
Jason.Saucier@ca.qbe.com**



Knowledge you need from the people you trust

As a claims adjuster, building a strong team is essential to help you fairly assess the losses sustained by injured parties and businesses. We provide enhanced services that insurance professionals depend on as they pertain to:

- ▶ Accident Benefits
- ▶ Stock loss
- ▶ Forensic/Fidelity Investigations
- ▶ Tort and Personal Injury Claims
- ▶ Business Interruption
- ▶ Extra expense

With over 100 offices, BDO has the industry knowledge and expertise to help you promptly resolve claims.

Alan Mak
416-865-0210
amak@bdo.ca

Janet Olsen
416-233-5577
jolsen@bdo.ca

Chetan Sehgal
416-775-7812
csehgal@bdo.ca

Assurance | Accounting | Tax | Advisory

www.bdo.ca/injurylossaccounting



2022 John McHugh Memorial Golf Classic

The Kitchener-Waterloo Chapter hosted the 2022 John McHugh Memorial Golf Classic on June 22, 2022.





Photos by Larrek Investigations.



Final Report

Carrie Keogh, Kitchener-Waterloo Chapter Delegate

The count-down to the Holiday season is on!

I'm sure I'm not the only one that starts getting excited seeing the Christmas décor on store shelves and starts planning all of my family's family traditions as soon as the leaves start turning colors!

The OIAA has been planning some wonderful events for our members, like the BIG OIAA holiday party (November 30th at the Sheraton Centre Toronto) and the K-W chapter is bringing back our Bowling with Santa event for members and their families.

I love hearing about holiday traditions and one of my favorites is my family and friend's cookie exchange. It's been a few years since we have been able to get together and celebrate the season (and eat and exchange yummy cookies). This holiday season will be a return to pre-pandemic get-togethers and traditions and I hope I can share a little bit of my holiday joy with you by sharing one of my favorite cookie recipes:

Chocolate Kisses Snowball Cookies

(yields 2 dozen)

Ingredients:

1 cup of softened butter	1 cup walnuts, very finely chopped
1 cup and ½ cup powdered sugar (divided)	½ tsp. kosher salt
2 cups all-purpose flour	2 tbsp. water
1 tsp. pure vanilla extract	24 chocolate Kisses, unwrapped



- Preheat oven to 325 degrees. Line two baking sheets with parchment paper
- In a large bowl using a hand mixer, cream together butter and ½ cup of powdered sugar. Fold in flour, vanilla, nuts, salt and water.
- Mold 1 tablespoon of the cookie dough around each chocolate Kiss and roll into a ball. Chill for 1 hour.
- Transfer to the prepared baking sheets and bake for 20 to 25 minutes, until cookies look dry and have not taken on any color.
- Cool cookies for 20 minutes, then roll in remaining 1 cup of powdered sugar

I can remember the smell of my mom baking cookies in the weeks before Christmas to this day and the day she made these cookies was always my favorite! My kids are now huge fans as well.

Enjoy this holiday season which is upon us and make sure you fit in a cookie break or two!

WP

Advertise with us because...

- The **WP** Magazine is the official journal of the OIAA (Ontario Insurance Adjusters Association).
- We have over 1,000 members.
- **WP** is fully digital and available to everyone.
- We currently have a social media following of over 3000 Insurance people and you will receive further value as these editions stay on the website continuously.
- As a social member and advertiser in the **WP** magazine September 2022 – June 2023 year, we will be pleased to offer you a free resource link on our website - www.oiaa.com
- The cost to advertise in **WP** magazine to reach a large group of potential clients is extremely reasonable - see below.

Please give consideration to advertising in **WP** and contact me if you have a question or visit our website at www.oiaa.com.

I look forward to hearing from you.

Jason Saucier, **WP** Advertising Manager

Phone: 416-682-5991 E-mail: wp@oiaa.com

Great rates!
15%-20% off all rates
for Social Members

Social Member is a current member (with no outstanding membership dues) of either the Provincial Chapter (including Toronto) or the local chapters (Georgian Bay, Hamilton, Kawartha-Durham, Kitchener-Waterloo, London, Niagara, Northern, Ottawa, Thousand Islands, Thunder Bay, and Windsor).

In order for a business to qualify for the discounts outlined below, at least 5 employees of the business must be social members or if the business has less than 5 employees, all the employees must be social members.

WP ADVERTISING RATES Prices are for space only – Sept. 2022 to June 2023

Size	Single Issue	Five Issues	Ten Issues	Member/Social Member Pricing		
				Single Issue 15% discount	5 Issues 20% discount	10 Issues 20% discount
Full Page	\$855	\$810 per issue	\$783 per issue	\$726	\$648 per issue	\$626 per issue
2/3 Page	\$720	\$679 per issue	\$648 per issue	\$612	\$543 per issue	\$518 per issue
1/2 Page	\$598	\$567 per issue	\$540 per issue	\$508	\$453 per issue	\$432 per issue
1/3 Page	\$504	\$477 per issue	\$454 per issue	\$428	\$381 per issue	\$363 per issue
1/4 Page	\$405	\$382 per issue	\$360 per issue	\$344	\$306 per issue	\$288 per issue
1/6 Page	\$301	\$283 per issue	\$270 per issue	\$256	\$226 per issue	\$216 per issue

Ads must be submitted in Press Quality High-Resolution PDF or JPEG formats. The resolution of all images should be at least 300 dpi. For details on publishing schedule and dimensions of ads please go to www.oiaa.com

WP radio ads are available, Please contact Terry Doherty at: wpdigital@oiaa.com

OIAA 2022-2023 Ontario Chapter Executive Officers

Georgian Bay (Barrie)

President: GREG DOERR, CIP
Doerr Claims Services Inc.
Barrie

Vice-President: MARY CHARMAN
Crawford & Company (Canada) Inc.

Treasurer: MARY CHARMAN
Crawford & Company (Canada) Inc.
Barrie

Secretary: TERESA MITCHELL, FCP, CRM, FCLA, FCAA, FIFAA
Crawford & Company (Canada) Inc.

Director: PATTI O'LEARY, CIP
The Co-operators
Barrie

Past President: KAYLA GUY
The Co-operators
Barrie

Chapter Delegate: SHERI TURNER
West Wawanosh Mutual Insurance Co.
TERESA MITCHELL, FCP, CRM, FCLA, FCAA, FIFAA
Crawford & Company (Canada) Inc.
Barrie

Chapter Delegate: JOE CUMMING, FCIP, CRM
The Co-operators
Barrie

www.oiaagb.com

Hamilton

President: AIDAN McCARDLE
Crawford & Company
Hamilton

Vice-President: LAURA O'HEARN
Maxwell Claims Services
Hamilton

Treasurer: LAURA O'HEARN
Maxwell Claims Services
Hamilton

Secretary: JENNIFER HAMU
Crawford & Company Inc.
Hamilton

Directors: JENNIFER HAMU
Crawford & Company Inc.
Hamilton

BRENDAN LEON
Crawford & Company Inc.
Hamilton

Past President: JENNIFER ALLAN
Brant Mutual Insurance Co.
Brantford

Chapter Delegate: CHRISTINE ANDREWS
Sage Claims Solutions Inc.
Hamilton

www.oiaahamilton.com

Kawartha/Durham

President: JASON SAUCIER, CIP, ACS
QBE Canada | European
Operations

Vice-President: TBA

Treasurer: ALICIA HUGHES
Crawford & Company Canada

Secretary: ALICIA HUGHES
Crawford & Company Canada

Director: NADINE DIONNE, BA, CIP
Crawford & Company Canada

Past President: BOBBI-JO STEPHENS, CIP, ACS
The Commonwell Mutual
Insurance Group

Chapter Delegate: JASON SAUCIER, CIP, ACS
QBE Canada | European
Operations

www.oiaakawarthadurham.com

Kitchener-Waterloo

President: KAYLA HELMOND
Crawford & Company (Canada) Inc.
Waterloo

Vice-President: MYKAL REID
Crawford & Company (Canada) Inc.
Waterloo

Treasurer: CAROLINE MANSEL
Curo Claims Service
Waterloo

Secretary: TBA

Directors: JAIME RENNER, CIP
Economical Insurance
Waterloo

KERI JOHNSON
The Co-operators General Ins.
Cambridge

Past President: JEFF CRONK, BBA, FCIP, CRM
Curo Claims Services
Waterloo

Chapter Delegate: CARRIE KEOGH, BA Hons
Gore Mutual
Cambridge

www.kw-oiaa.ca

London

President: HEIDI BRONNENHUBER, B.A., CIP
ClaimsPro Inc.
London

Vice-President: KELLY PECK-MCDONNELL, CIP
Kent & Essex Mutual
Insurance Company

Treasurer: LINDA PEREIRA
Lambton Mutual Insurance Co.
Watford

Secretary: JORDAN TREMBLAY, CIP
ClaimsPro Inc.
London

Directors: ANGELA COWEN
Definity Financial
CORY BOYLE
Definity Financial
COURTNEY ALLISON
Intact Insurance
JENNIFER MOREAU
Howard Mutual Insurance Company

Past President: KATE BOYLE, B.A. (HONS), CIP
McKillop Mutual Insurance Co.
Seaforth

Chapter Delegate: MICHELE FIELD, FCIP
Trillium Mutual Insurance
Company

www.londonclaimsassociation.com

Niagara

President: BOB MCCORD, FCIP, CFEI, CRM
Leading Edge Claims Services
Fonthill

Vice-President: CHAUSSIE LAWSON, FCIP, CRM
Portage Mutual Insurance Co.
St. Catharines

Treasurer: CODY HULLEY, CIP
Portage Mutual Insurance Co.
St. Catharines

Secretary: MICHAEL RAGONA, CIP
Sedgwick Canada Inc.
St. Catharines

Directors: JEFF EDGE, CIP, CFEI
Leading Edge Claims Services
Fonthill

CRAIG OZOG, CIP, CFEI
Leading Edge Claims Services
Fonthill

CHRIS JOLLIFFE, B.Sc., CIP, CFEI
Leading Edge Claims Services
Fonthill

DANIELLE SILVER
BCM Insurance

ERIC GRIFFI
Crawford & Company Canada Inc.

KATIE GRAY
Portage Mutual

Chapter Delegate: CRAIG OZOG, CIP, CFEI
Leading Edge Claims Services
Fonthill

www.oiaaniagara.com

Northern

President: BLAIR BOILARD, CIP, CFEI
Crawford & Company Canada Inc.
Elliot Lake

Vice-President: IAN JOHNSON
Claims Pro Inc.

Treasurer: GREG MCAULEY
The Co-operators
Sault Ste. Marie

Secretary: AUDREY TAILLON
Claims Pro Inc.

Directors: DAVID K. MARSHALL
Crawford & Company Canada Inc.
Sault Ste. Marie

TIM HALL
Crawford & Company Canada Inc.

JESSE VERMETTE
Crawford & Company Canada Inc.

TONY D'AGOSTINO
Optimum Insurance Company Inc.

Chapter Delegate: MIKE BOTTAN, CIP, CFEI
Crawford & Company Canada Inc.
New Liskeard

Ottawa

President: RYAN REISS, FCIP, CRM, CFEI
Economical Insurance Company
Ottawa

Vice-President: TBA

Treasurer: CONAR MARCOUX, BA, FCIP, CFEI
Crawford & Company

Secretary: SARAH SMITH, ACIP, CRM
Economical Insurance Company

Director: PATRICIA MARTIN, BA(Hons), B.Ed, CIP
Economical Insurance Company

Chapter Delegate: MARGARET MACKENZIE
Travelers Canada

www.ovaa.ca

Thousand Islands

President: SHARI HAMILTON
PCA Adjusters,
Belleville

Vice-President: BEN BALDWIN, BA CIP
Travelers Canada

Treasurer: SARAH GRAVES
Crawford & Company (Canada) Inc.
Kingston

Secretary: ERIN SHEARD
ClaimsPro
Kingston

Director: ALEX ROBINSON
L&A Mutual

Past President: BRAD WILSON, BBA, CIP
Crawford & Company (Canada) Inc.
Kingston

Chapter Delegate: DUNCAN SOUTHALL
PCA Adjusters,
Kingston

www.wearetiaa.com

Thunder Bay

President: ALISA HAINRICH, CIP
Wawanesa Mutual Ins. Co.

Vice-President: FRANK CASTALDO
Intact

Treasurer/Secretary: KIM LEPERE
ClaimsPro

Directors: DAVID KIRYCHUK, BA, CFEI
Crawford & Company (Canada) Inc.
SANDRA FREEMAN
Intact

Chapter Delegate: CLAIRE RICHARDSON, BA, CIP
Sedgwick

www.oiaatbay.ca



Subscribe to our new
WP Media channel and you
will find videos as well as
WP Radio podcasts on the
WP Digital Channel
[www.youtube.com/channel/
UCMZ7YF3T6ErcQJpsyHrq6vw](http://www.youtube.com/channel/UCMZ7YF3T6ErcQJpsyHrq6vw)

We would love to hear from you!

If you have any inquiries or comments, please contact us.

Inquiries: **info@oiaa.com**

President: **president@oiaa.com**

Website: **website@oiaa.com**

Membership: **membership@oiaa.com**

WP Magazine: **wp@oiaa.com**

WP Digital (Radio): **wpdigital@oiaa.com**

Claims Conference: **cc@oiaa.com**

Events: **events@oiaa.com**

Bursary: **bursary@oiaa.com**



Ontario Insurance
Adjusters Association

Advertisers' Index

Our thanks to these companies who find our magazine
a useful tool in their marketing programs.
We appreciate your support.

	Page No.		Page No.
Accomsure	14	GardaWorld	43
ADR Chambers.....	15	Global Resolutions.....	49
AutoLux	43	MDD Forensic Accountants.....	37
BDO Canada	51	Nusens.....	45
Beard Winter LLP.....	38/39	Premiere Suites	50
Brown & Beattie	42	ServiceMaster Restore	13
Consolidated Salvage.....	44	Servpro Industries (Canada) ULC	41
CPI Ontario	40	Williams Meaden & Moore Inc.	49
Davis Martindale.....	44	Xpera Risk Mitigation	21

The OIAA provides professional development, networking, inside industry news and support to insurance adjusters across Ontario. By joining our 1500 plus network of active and associate members, you receive:

- All Memberships (except Social) are \$50+HST per year.
Social memberships are \$75+HST per year.**



IIAA
Ontario Insurance Adjusters Association

Introducing our New and Improved Website

oiaa.com

- Better viewing experience
- More informative
- Easier to navigate
- More interactive and user friendly
- Enhanced photo gallery

Check it out today:
oiaa.com

*Your hub for
adjuster related
information.*

