

A consumer information product  
of Ches Crosbie Barristers  
Accident and Injury Law

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## Firm Newsletter Goes to the Dogs!

They say that people and their dogs come to look like each other. We thought it would be fun to have a contest in which we invite you to match the staff member of Ches Crosbie Barristers with the dog he or she owns.

The photographs of firm members and their dogs are found in no particular order throughout this edition of *Settled Right*.

The first ten people who call our office at 579-4000 (toll free 1-888-579-3262) or email us at [ccb@chescrosbie.nf.net](mailto:ccb@chescrosbie.nf.net) and correctly match two dogs with their owners will receive a gift!■



## Changes to the Wrongful Death Laws

Prompted by the fallout from the Breast Cancer Testing scandal, in June 2010 the legislature of Newfoundland and Labrador changed the wrongful death laws to provide for compensation for "loss of care, guidance and companionship".

Federal legislation, like that of Newfoundland and Labrador now, also permits family member claims for loss of care, guidance and companionship in wrongful death cases. A case decided in New Brunswick by the Federal Court of Canada illustrates the benefit of these laws. The case of

*Wilcox v. Miss Megan (The)*, decided in 2008, helps us to understand these awards. The decedent had been working on board a fishing vessel when it foundered and he was drowned. He was 63 years old at the date of death, and was a husband, father, and brother of two siblings. The awards for loss of guidance, care and companionship made by the Federal Court were:

- wife — \$75,000
- disabled daughter — \$75,000
- adult daughter — \$25,000

- adult son — \$25,000
  - brother — \$15,000
  - sister — \$15,000
- Total — \$230,000**

So you see that these new awards can be substantial. But remember that courts assess intangible, non-pecuniary losses such as loss of care, guidance and companionship, by looking at the nature of the relationships involved in the case, on a customized basis. No two cases are exactly the same. Remember as well, that courts in our province are conservative.

Although court assess-

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# Hands-on Might Be Better for Some

Orthopedic physiotherapy deals with the treatment of many musculoskeletal problems such as joint problems, muscle strains, ligament sprains, arthritis, and injuries related to motor vehicle accidents, work, and sports. A specialized field of orthopedic physiotherapy is manual and manipulative physiotherapy. Practitioners of manual and manipulative physiotherapy are trained in the *assessment* of these injuries.

These assessment skills include a detailed examination of joint mobility and stability, in order to determine the role that a joint dysfunction may play in a patient's condition. This process includes ligament testing to determine the stability, and movement is assessed with specific joint glides to determine joint mobility. Another step is an overall biomechanical exam to determine how the muscles and joints are working together and to identify areas that need to be addressed with treatment.

Manual and manipulative physiotherapists use all the traditional means of physiotherapy to help treat injuries but have the added tools of joint mobilization and manipulation. Joints

that are limited in their movement can be helped with these hands-on techniques. Many injuries begin as an acute event—caused by a motor vehicle accident, for example—with soft-tissue damage being the predominant concern in the early stage. However, after the acute phase settles, patients often continue to have symptoms. Joints that were initially sprained may not spontaneously recover their range of motion. Despite the healing process occurring in the soft tissues, reduced joint mobility means continued strain on muscles working in the restricted regions. This may cause abnormal tension through the surrounding joint tissues. An example of this is neck pain caused by increased load on the neck due to joint stiffness and limitation in the middle back. In this case, local treatment to the neck may provide some relief, but many times, identifying the middle-back joint restrictions and treating them effectively ensures a full recovery and not just symptom relief. This is just one example of how manual therapy can be a helpful adjunct to a patient's treatment.

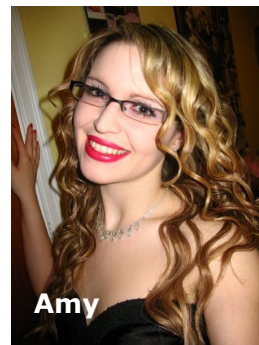
A proper joint assessment can identify restrictions that are contributing to a patient's condition and manual joint

mobilization can help restore the joint's normal function. In many cases, identifying the underlying changes in joint motion is the key to a successful treatment program and complete recovery.

The Canadian Physiotherapy Association has several divisions to organize and support physiotherapists with interest in specific areas of physiotherapy. The Orthopedic Division runs courses and exams throughout Canada in manual and manipulative physiotherapy. When a therapist has completed this education, he or she is eligible to be a Fellow of the Canadian Academy of Manual and Manipulative Physiotherapy.

## Bill Maher, BScPT, FCAMPT

Bill Maher has been practising physiotherapy in St. John's since 1991. He has a Diploma of Advanced Manual and Manipulative Therapy and is a Fellow of the Canadian Academy of Manual and Manipulative Physiotherapy. He works at Wedgewood Physiotherapy with two other manual and manipulative physiotherapists, Lesley Billard and Laura Neville. ■



Amy



Gracie & George



Digby & Scout



Pamela



Laura

## Most Frequently Asked Questions About Accident and Injury

- Q. Is Jesus with me while I'm driving?
- A. Not always. Our advice: Honk if you love Jesus; text while driving if you want to meet him.



Sunny

# Worried about Walking into the Wall When You're Texting on Your iPhone?

The applications available for the iPhone keep getting more creative, but some of them are also becoming a little ridiculous. One company released an app for the iPhone called "Type n Walk" that apparently will help you avoid collisions with walls or other objects in your way.

Type n Walk allows people to see where they are going, even though their eyes are on the iPhone. The application creates a transparent viewport of what is in front of you.

So, basically, you are entrusting your safety to an iPhone.



Simon

According to the developer of this application, the view created by this app, "combined with your peripheral vision is just enough visual information to help you avoid obstacles—like walking face-first into a tree." How reassuring!

This application isn't the only one that allows you to see through your phone while typing. There are others.

**Wouldn't a better option be to pay attention to where you are going and put the phone away? ■**

## Changes to the Wrongful Death Laws, cont'd.

ments are customized to the case, conventional awards and guidelines do emerge. For example, in an Ontario case involving immigrant family members who were very close, the Court of Appeal assessed the value of a deceased 14-year-old's close relationship with his sister at \$25,000. The loss of relationship suffered by the boy's parents was assessed by a jury at trial at \$100,000 to each parent. Although the Court of Appeal felt this to be on the high side, it was not so high as to justify interference. But an award of \$100,000 to a relationship claimant is thought by many to be the rough upper limit on awards of this kind. It is the exceptional case.

In 2002, the Alberta legislature set the amount payable for grief and loss of guidance, care and companionship at \$45,000 for each child on the

wrongful death of a parent, and \$75,000 on wrongful death of a spouse. These are legislated, defined amounts and the awards are automatic, without any court assessment needed. Perhaps these amounts represent a rough consensus on amounts which Canadian society considers to be reasonable compensation for intangible, non-pecuniary losses which cannot be measured in monetary terms. The spousal compensation under the Alberta legislation happens to be the same as was awarded on a case-by-case approach in the *Wilcox* case in New Brunswick that I discussed above. Saskatchewan and Manitoba have legislated awards for amounts payable for loss of guidance, care and companionship which are lower. As I said before, our courts are conservative and the cases I have just discussed involve

best-case scenarios.

But the important point is there is potential for significant awards—no longer must lawyers tell grieving loved ones that a legal claim makes no sense because their child or their elderly parent was "worth nothing" in the eyes of the law. ■



Gail



Riley



Ches



Jonathan

## Thank You for Your Referrals!

**Our success is built on referrals and word-of-mouth advertising. We would like to thank everyone who is kind enough to recommend our firm to their friends.**

**Thank you so much!**

**Please call us at 579-4000 (toll free 1-888-579-3262) to let us know when you have referred a client to us so we can recognize you and send a special thank-you gift.**



**Lori O'Keefe**

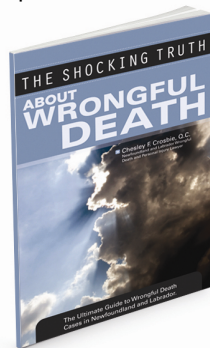
UPDATE: In the last edition of *Settled Right* we told you about **CBS resident, Lori O'Keefe**, participating in the Miss Canada Galaxy Competition in Ottawa. We are pleased to report that while Lori did not take home the crown, she was named Miss Congeniality. Congratulations Lori! And Note: Lori is not the owner of any of the dogs depicted in this edition of *Settled Right*.

## **FREE** Information for Accident Victims Think most lawyer ads aren't helpful?

So do we.

### **The Shocking Truth About Wrongful Death**

When someone dies because of the fault or negligence of another, it's called wrongful death. I wrote this book so consumers could have good, solid information about wrongful death laws, hiring a lawyer and dealing with an insurance company. If the death of a loved one has occurred due to the fault of another—whether by motor-vehicle accident, medical malpractice, or any other accident including injury on premises—this book can help.



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