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CARRANZA LLP Fall 2012 newsletter

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we're a
lot different.
in fact,
we're a
lot like
you.
we have the
SAME TRADITIONS.
we live and
play in the same places.
we also
speak your language.





Landmark decision in Pastore v. Aviva

An important landmark legal decision was reached in the case of Pastore v. Aviva Canada Inc. recognizing chronic pain as a condition worthy of catastrophic designation.

In November 2002, Mrs. Pastore was struck by a car and suffered a fractured left ankle and had to undergo several ankle surgeries, and while she was recovering, she over-compensated on her right side. This resulted in chronic pain in both her right knee and ankle, which affected every aspect of her life.

Mrs. Pastore was a hard-working Italian matriarch. She not only held a job, but also tended to her home as well as her disabled husband. Being a traditional Italian woman, she took great pride in her home and her matriarchal role in keeping the family together. Following the accident, she could not work, look after her home and family, or even take care of her own basic needs. Her lawyer Joseph Campisi, knows firsthand what this meant for his client and her family. His Italian upbringing enabled him to understand the ethical implications her injury had on her family.

A medical team including a physiatrist,

psychologist, psychiatrist and occupational therapist, concluded Pastore had a catastrophic impairment consisting of a “marked impairment in her activities of daily living.”

Catastrophic impairment entitles one to benefits of up to \$1 million in medical and rehabilitation treatment, while standard benefits only give \$100,000. After September 2010, these benefits have been further reduced under the standard policy to \$50,000.

In 2005 she applied to her insurer Aviva Canada Inc. to have her injury designated as catastrophic so she would be eligible to receive the enhanced accident benefits she needed to care for herself and her family. She was referred to a designated assessment centre which found that she did sustain a catastrophic injury. Her insurance company refused to accept this finding, and after mediation failed, the issue was taken to the Financial Service Commission of Ontario. The arbitrator reached the same conclusions as the designated assessment centre and the case went through various appeals.

Ultimately, the Ontario Court of Appeal upheld the decision of the arbitrator and with a catastrophic designation, Pastore can apply for up to \$1-million in medical

and rehabilitation treatment, up to \$1-million in attendant care assistance, and housekeeping assistance for life.

The decision is significant because it recognizes the serious and debilitating effects of chronic pain, which by its very nature includes physical pain. In severe cases where the impact on a claimant’s life is marked or extreme, they can apply to their auto insurer for enhanced benefits. Affording chronic pain sufferers with the opportunity to receive the same benefits that are available to individuals who have sustained other injuries.

It must still be kept in mind that a catastrophic designation is just a title that affords an injured victim an opportunity to apply for enhanced benefits, and they still has the burden of proving that they are entitled to each and every enhanced benefit that they apply for

Pastore has struggled for the last decade, unable to walk up and down the stairs in her home and forced to use a commode, or a portable toilet, in her family room instead of the washroom upstairs. She has been in desperate need of housekeeping and attendant care benefits beyond the standard two years, and will now finally received the benefits she deserves.

Carranza website in 10 languages

As part of our continued commitment to making legal representation accessible and understandable to everyone, the Carranza LLP’s website is now available in 10 languages.

The population of Toronto is ethnically diverse and we want to ensure that we are providing the information clients need, in the language they are most comfortable with.

“Suffering a catastrophic injury is devastating to any person and their family. However, recovering from a personal injury can be even more difficult for those whose first language is not English,” says Cesar Carranza, the

firm’s senior accident benefits law clerk. The website www.carranza.on.ca is now available in the following languages:

- Filipino
- Spanish
- Italian
- Portuguese
- Vietnamese
- Cantonese/Mandarin
- Hindi
- Urdu
- Punjabi
- English



Carranza Rocks the Pitch



The Carranza Cougars played in the Annual Rock the Pitch soccer tournament at Lamport Stadium in Toronto, in support of Athletes for Africa.

Founded in 2004, Athletes for Africa is a non-profit organization that uses the power and profile of sport to promote global citizenship and empower the next generation of youth in Africa. By raising funds and increasing awareness, Athletes for Africa supports local programs that strengthen communities, provide education and foster skills development.

BIST 5K Run, Walk & Roll

Carranza Staff Lace Up For An Important Cause

For the second year in a row, staff at Carranza LLP laced up their running shoes to support the Brain Injury Society of Toronto's 5k Run, Walk & Roll.

More than half of the firm staff participated in the event, where all funds raised support the society's mission to enhance the quality of life for those living with the effects of acquired brain injury through education, awareness, support and advocacy.

"The incentive for participation in this event is two-fold," says Joseph Campisi, partner with Carranza LLP. "We are supporting a great organization in

Toronto that supports the very clients we serve, and we get the added benefit of a fun staff experience."

Community involvement is a core value of the firm, supported by staff, lawyers and partners alike.



M.M. v. Guarantee Company of North America

M.M. was struck by a car at the age of five and suffered a multiple injuries. M.M. suffered severe blood loss which contributed to a reduced level of consciousness at the scene of the accident. Paramedics measured her level of consciousness using the Glasgow Coma Scale (GCS) resulting in a score of 9 out of 15, indicating moderate brain injury. Shortly after receiving oxygen M.M.'s GCS score improved to a normal reading of 15.

The law states that if as a result of a motor vehicle accident a person has a GSC score of 9 arising from brain impairment, then the person will be found to have sustained a Catastrophic Impairment, which will allow the person to access enhanced medical and rehabilitation benefits.

M.M.'s insurer argued that her temporary GCS score of 9 was actually caused by hemodynamic instability and not due to brain impairment as required by law, and consequently she was not entitled to Catastrophic Impairment benefits.

M.M.'s lawyer Juan Carranza was able to demonstrate that M.M.'s bleeding caused reduced levels of oxygen flowing



to the brain impairing its function such that M.M. was only able to score 9 on the GCS scale.

The arbitrator agreed with M.M.'s counsel's argument and held that M.M. did in fact suffer a brain impairment from the accident as indicated by her GSC score of 9. The arbitrator found that M.M.'s brain suffered a loss of function for several minutes due to hypoxia (lack of oxygen) and haemorrhage pressure on the right hemisphere. This case is important as it confirms the principle that a single GCS score of 9 or less will suffice to meet the legal test for

Catastrophic benefits entitlement. The decision is especially important as it clarifies previous decisions where the court had commented, in passing, that accident victims with a GCS score of 9 or less caused by blood loss, would not be considered to have sustained brain impairment and thus were not entitled to Catastrophic benefits under the GCS criteria.





Staff Profile Kevin Doan



Kevin Doan is a respected leader in the field of personal injury litigation. He has achieved record-setting awards and settlements in Canada. His groundbreaking decisions change the law, more importantly, to the benefits of all injured victims.

Some of his recent achievements include:

- In a complex catastrophic brain injury case, he obtained the largest award ever granted in Canada for automobile accident benefits, including a record award for 24 hours a day attendant care.
- For the first time in the history of automobile accident benefits in Ontario, Canada, Kevin successfully argued that medical marijuana is not an experimental medication. As a result, medical marijuana may therefore be payable by insurance companies to injured victims. This award

Kevin Doan Personal Injury Lawyer

Country of Origin: Vietnam

Languages Spoken: Vietnamese and English

provides an important treatment option throughout Ontario for automobile accident victims who suffer from chronic pain, anxiety, insomnia, and other impairments.

•When the government changed the law to reduce the rights of accident victims, Kevin successfully developed arguments which struck down the law to protect their important contractual rights. This results in many millions of dollars paid by the auto insurance

industry to injured victims.

Since 2008, Kevin has been certified as a Specialist in Civil Litigation by the Law Society of Upper Canada where fewer than 2% of lawyers are certified. As a board certified specialist, he is regarded as a leader in personal injury litigation who maintains exemplary standards of professional practice.

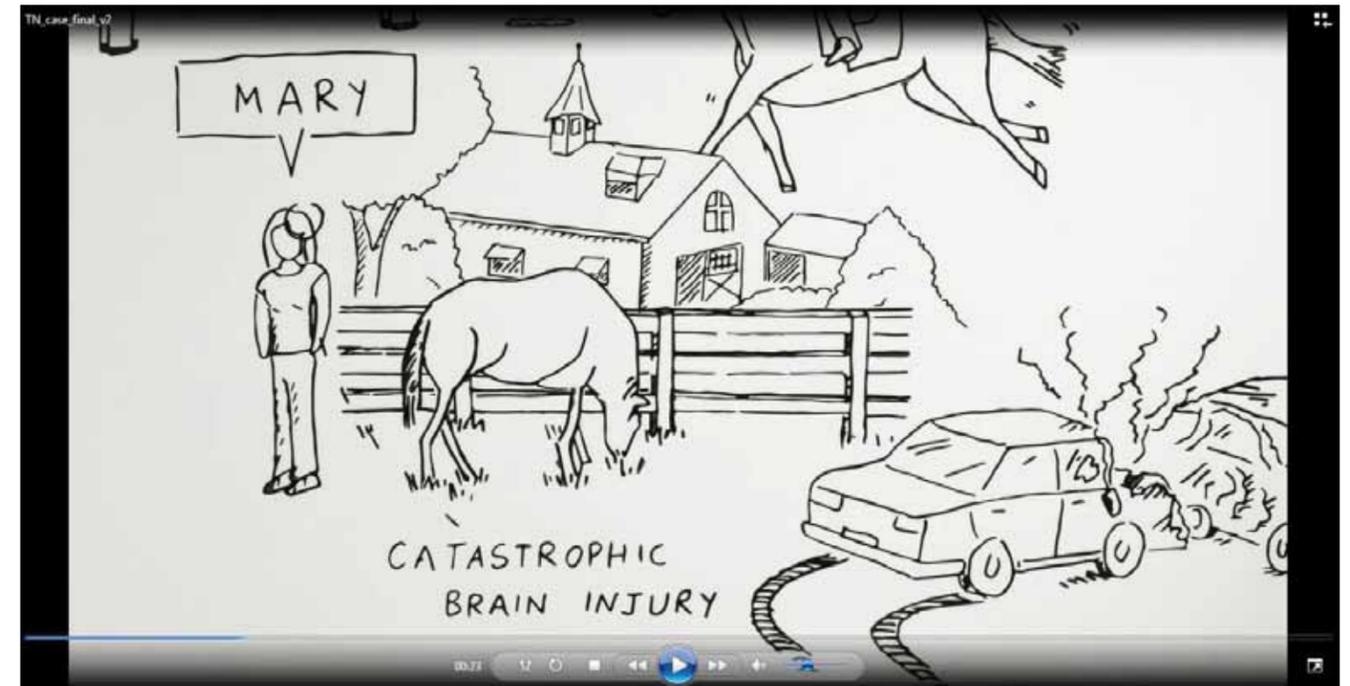
Carranza Animations

Carranza LLP has a unique understanding of culture and recovery and as a result, we have been able to make a big difference in the lives of our clients by securing much needed and deserved

benefits, including financial assistance, rehabilitative services and just settlements to help make their journey to recovery a little easier.

We have developed a series of animations to bring you our victories in a way that is dynamic and entertaining.

Please visit www.carranza.on.ca to watch.





As Toronto's largest ethnic personal injury law firm, speaking over 24 different languages, we are committed to helping injury survivors achieve maximum recovery and fair compensation.

We specialize in the following areas of personal injury law:

- car accident claim
- brain injuries
- spinal cord injuries
- long term disability claim
- Slip and Fall Claim
- Paediatric Injury
- Orthopaedic Injury

Carranza LLP is the only ISO 9001:2008 certified personal injury law firm in Canada which ensures every client receives the highest standard of customer service.

Stay connected!



We want to hear from you! Please review us on [Google](#)

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