

From: Rhona Desroches <[FAIRautoinsurance@gmail.com](mailto:FAIRautoinsurance@gmail.com)>

Date: Fri, Apr 12, 2013 at 11:50 AM

Subject: Regarding the March 15th Round Table discussions on CAT impairment

To: "[csousa.mpp@liberal.ola.org](mailto:csousa.mpp@liberal.ola.org)" <[csousa.mpp@liberal.ola.org](mailto:csousa.mpp@liberal.ola.org)>, "[kwynne.mpp.co@liberal.ola.org](mailto:kwynne.mpp.co@liberal.ola.org)" <[kwynne.mpp.co@liberal.ola.org](mailto:kwynne.mpp.co@liberal.ola.org)>, "Cathryn (FIN)" <[Cathryn.MacFarlane@ontario.ca](mailto:Cathryn.MacFarlane@ontario.ca)>, "[Karen.Leitch@ontario.ca](mailto:Karen.Leitch@ontario.ca)" <[Karen.Leitch@ontario.ca](mailto:Karen.Leitch@ontario.ca)>, "[Stuart.Wilkinson@ontario.ca](mailto:Stuart.Wilkinson@ontario.ca)" <[Stuart.Wilkinson@ontario.ca](mailto:Stuart.Wilkinson@ontario.ca)>, "[rob@crowfordassociates.ca](mailto:rob@crowfordassociates.ca)" <[rob@crowfordassociates.ca](mailto:rob@crowfordassociates.ca)>, "[alvaro.delcastillo@ontario.ca](mailto:alvaro.delcastillo@ontario.ca)" <[alvaro.delcastillo@ontario.ca](mailto:alvaro.delcastillo@ontario.ca)>, "[alan.shanoff@sunmedia.ca](mailto:alan.shanoff@sunmedia.ca)" <[alan.shanoff@sunmedia.ca](mailto:alan.shanoff@sunmedia.ca)>  
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April 12, 2013

Dear Minister Sousa

Please see the letters to Ms. MacFarlane regarding the CAT Round Table discussions below. FAIR has not yet received an answer to our questions in the email directly below. These are not rhetorical questions, these are consumer concerns about the way these consultation panels are put together, who attends these consultations and why, and a concern about how some of the information gathered might be interpreted. FAIR would appreciate an answer.

There is a history here with Mr. Daw who sat on the Anti-Fraud Task Force Committee as it's "consumer representative" without any known association with a consumer group and who had, only months before, been in the employ of the Insurance Bureau of Canada (see links below). And here he is again at this Catastrophic impairment round table. Was he attending on behalf of the IBC? Or the Toronto Star? We were told that the IBC had lengthy consultations with the Ministry about the changes to CAT designation only days before this round table - so for the IBC to have 3 representatives in the discussion while other stakeholders were afforded two attendees would be unfair considering that IBC's role is to be active on behalf of its members who are Ontario's insurers. IBC does this by anticipating opportunities, possibly such as FSCO round-table discussions, to identify, shape and influence change in support of their members' business needs.

Consumers expect that the statement in the 2013 Draft Statement of Priorities that FSCO "is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates" and "protect the interests of financial services consumers" would mean making sure that the process of consultations is entirely above board. This was not the case with the Anti Fraud Task Force Steering Committee disclosure where Mr. Daw's previous association with the IBC was not listed and this was not unnoticed by consumers. Mr. Daw is a respected journalist and perhaps he was the only reporter invited to the CAT round table discussions, if so, we'd like to know why he was afforded this exclusively.

Consumers have noticed the large advertising placed around the Minister of Finance's buildings by the Insurance Bureau of Canada. Clearly there are abundant funds for advertising, while catastrophically injured accident victims have had their claims delayed and denied by their insurer.

You must see these advertisements, as we understand that they are at the front door of the Ministry of Finance building and in front of your office with a very clear message of:

"New Session - Same Old Problems"... "with a plea to pass reforms to help lower the cost of Ontario's auto insurance" with the additional line of "Define Catastrophic Injury based on medical science - not lawyers' arguments".

Consumers and MVA victims would like you to know that we think that the "Same Old Problems" are likely the result of some very intense lobbying by the insurance industry's lobby group, the IBC, and the relationship is very obvious and unacceptable. Accident victims do not have the funds for media campaigns and signs at the Ministry but we would like you to consider what we might say if we showed up outside your front door with signs.

New Session - Same Old Problems. You're back for a new legislative session.

So are you listening to those 28,398 accident victims who couldn't access the benefits they were promised by their insurers last year?

Are you really going to fine innocent accident victims \$500.00 for not attending 'independent' medical examinations at assessment mills or with assessors who are biased or whose qualifications and often shoddy reports are questionable?

Will the Anti Fraud Task Force Committee acknowledge that they did not address the quality of the IME process and that their recommendations for quality control are based on no real or substantive oversight at all?

Are you seriously considering proceeding with the Catastrophic Impairment Definition based on the 'Expert' Panel Report - where 25% of the Panel did not think paraplegia or quadriplegia was a catastrophic injury?

Are you concerned that Ontario's 9.2 million drivers, all of whom vote, will appreciate 'improvements' to the system that advantage only the insurers and will make certain that our most seriously injured citizens will not be able to access the treatment or benefits they need for recovery?

Have you considered the simple solution to speed up mediation and arbitration is for insurers to be penalized for improper denial and delay of benefits to legitimate accident victims?

I do hope that we will get a response to the three questions posed in the email below. Consumers forward to hearing back from you.

Regards

Rhona DesRoches

FAIR, Board Chair

[Revealing Credit Scores](#)

*By: James Daw, Freelance Writer*

2011-09-01

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[Ontario establishes Auto Insurance Anti-Fraud Task Force](#)

Source: Daily News | 2011-08-02

James Daw

Daw is a business journalist writing in the field of personal finance, pensions, tax, insurance, business and the economy. Daw is a former Toronto Star personal finance columnist who has written extensively about the auto insurance system in Ontario.

[Fraud Detection](#)

Ontario has embraced the potential of claims data collected by Health Claims for Auto Insurance (HCAI) to fight auto insurance fraud.

TEXT SIZE *By: James Daw, senior writer, Insurance Bureau of Canada*

**From:** Rhona Desroches <[FAIRautoinsurance@gmail.com](mailto:FAIRautoinsurance@gmail.com)>  
**To:** "Macfarlane, Cathryn (FIN)" <[Cathryn.Macfarlane@ontario.ca](mailto:Cathryn.Macfarlane@ontario.ca)>  
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**Sent:** Monday, March 18, 2013 12:36:20 PM  
**Subject:** Regarding the March 15th Round Table discussions on CAT

Hi Ms. MacFarlane

I am writing in regards to some concerns that FAIR has regarding Friday's Round Table discussions on CAT Impairment Definition.

During the course of our discussions when it came to the separation of physical and psychiatric impairments the IBC representative became irritated to point of aggression. During Ms. Sulzenko-Laurie's (IBC) outburst of anger she berated the entire table and intimidated Jennifer who was part of the facilitation team into noting on the Table #2 communal notepad that she agreed with the CAT Panel's proposal that physical/psychiatric injuries should NOT be combined. That is NOT the consensus of the table. While Ms. Sulzenko-Laurie did specifically instruct that her name be placed beside this opinion it was inappropriate to have insisted that this be noted on those notes of consensus. Jennifer did what anyone would do to avoid further confrontation and a further attack on Ms. Kaplan and all the other participants and should not be faulted for having done so. My concern is that whomever interprets these notes into a summary may well interpret that notation as being part of Table #2 consensus and agreement.

There is the issue of Mr. Daw's attendance at the round table discussions given your email below that participants were all persons with "deep experience" working with the injured. I would ask how Mr. Daw, who writes a column for the Toronto Star fits into this category? I did take the time to discuss this with Mr. Crawford, the facilitator, who indicated that he had no hand in the selection process or qualifications of those chosen to attend. Mr. Crawford was unable to confirm whether Mr. Daw was there as a journalist, as part of the now disbanded Anti-Fraud Task Force and suggested that he may be there as a consumer representative. He indicated that Mr. Daw had signed a non-disclosure agreement. FAIR would like an answer as to Mr. Daw's purpose at the round table as you have indicated in your email below that the Media was specifically excluded from the discussion process.

The fact that a reporter was chosen to attend this meeting may explain why there was no qualified physician at Table #2. Was there even a qualified licensed physician in the room to discuss these very important issues? When I inquired about the lack of qualifications (from Mr. Crawford) I was told that there was a chiropractor at every table. All due respect to the chiropractic community, one would hope that if one were catastrophically injured that the question of whether or not a person (who may be paraplegic or quadriplegic) could access catastrophic benefits would hinge solely on a chiropractor's assessment opinion. If this is an indicator of who is performing these CAT assessments then FAIR would like to have that confirmed.

When I wrote last week to inquire about Dr. Becker attending it was solely based on my review of the cases listed on the FSCO Arbitration Unit web pages where Dr. Becker's CAT assessment reports seemed to widely accepted by FSCO arbitrators. I was also aware that Dr. Becker had previously presented to the CAT Panel report on Phase I. At no time did I anticipate that there would be discussions at the round table about seriously injured Ontarians that did not include physicians - this is compounding the same problem that existed with the CAT Panel itself - a lack of qualification when it comes to the front line professionals who have the knowledge to speak with authority on the subject of CAT impairment.

Suffice to say that the fact that there was not a doctor of physical medicine at the table(s) for discussion is a message of it's own in terms of contempt for the seriousness of the issue at hand and a slap in the face to all of those accident victims whose expectation of our government oversight is that they do the best job possible.

There may be some breakdown in communication somewhere along the line but it has manifested itself in the creation of a CAT Panel with a lack of working knowledge about the predicament of seriously injured accident victims and this is continuing through the consulting process without correction. Accident victims are not pleased to find that chiropractors are the voice of the FSCO insofar as setting the standard of care for seriously injured accident victims.

So there are 3 questions:

Will you be making sure that the IBC representative's agreement to the preposterous and ridiculous suggestion that physical/psychiatric impairments no longer be combined be removed from the consensus notepad?

Will FAIR get an explanation why Mr. Daw of the Toronto Star was invited and in what capacity?

Was there a licensed physician in the room - if so - who - and why was there not a physician at each table?

I look forward to your response.

Regards  
Rhona DesRoches  
FAIR, Board Chair

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**From:** "Macfarlane, Cathryn (FIN)" <[Cathryn.Macfarlane@ontario.ca](mailto:Cathryn.Macfarlane@ontario.ca)>  
**To:** Rhona Desroches <[FAIRautoinsurance@gmail.com](mailto:FAIRautoinsurance@gmail.com)>  
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**Sent:** Wednesday, **March 13, 2013** 6:16:53 PM  
**Subject:** RE: Request for accomodation at Catastrophic Impairment Stakeholder Forum

Hi Ms. DesRoches

Thank you for taking the time to recommend Dr. Becker with regard to discussions about the catastrophic impairment definition.

We do have a comprehensive group for this Friday's session, carefully put together to represent as many health care occupations as possible, along with deep experience in working with the injured. I think you will find that a full discussion will take place. Participants will be free to recommend to the government that it further consult with individuals such as Dr. Becker.

Thank you again for your e-mail.

Cathryn MacFarlane  
Senior Policy Manager, Insurance

**From:** Rhona Desroches [mailto:[FAIRautoinsurance@gmail.com](mailto:FAIRautoinsurance@gmail.com)]  
**Sent:** **March-13-13** 2:37 PM  
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**Cc:** Leitch, Karen (FIN); Wilkinson, Stuart (FIN); [rob@crawfordassociates.ca](mailto:rob@crawfordassociates.ca)  
**Subject:** Re: Request for accomodation at Catastrophic Impairment Stakeholder Forum

Hi Ms. MacFarlane

Thank you for getting back to me. I did have the opportunity to speak with Mr. Crawford this morning and he is aware of Ms. Kirkwood's needs and has promised to do his best to accommodate. A wheelchair will not be necessary.

I did place a second call today to Mr. Crawford regarding an important issue that I only became aware of this morning. It turns out that a very important stakeholder has not been invited to the round table. Dr. Harold Becker, a well respected assessor of Catastrophic Impairment, has not been invited to this meeting. I do not personally know Dr. Becker but I do know that he is probably one of the most highly regarded physicians who has consistently submitted his views on this issue and other issues that relate to assessing MVA victim injuries. His paper submission is part of the record as it relates to the CAT designation and he did speak to the Standing Committee on general government affairs last Spring. I did say to Mr. Crawford that I felt that this was like trying to bake a cake without an egg - if important and knowledgeable individuals have been left out of the consultation process, how can there be a balanced outcome?

Is this just an accidental oversight or have certain individuals been deliberately left off the invitation list? Shouldn't this be corrected? Are we going to have individual physicians that can speak with authority on

the subject of CAT impairment participating in this round table discussion? Haven't all of the stakeholders been invited - it seems to me that if someone takes the time to put together a submission on the CAT and is a person or organization that is in the 'know' and can present a valid position shouldn't they should be included?

I look forward to hearing back from you on this important matter - it seems that if the ministry expects a robust and informative discussion then they would make every effort to provide the best information available.

Regards  
Rhona DesRoches  
FAIR, Board Chair

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