



The Law Society
of Upper Canada

Barreau du
Haut-Canada

4. Your complaint

a. Please tell us about your complaint

FAIR Association of Victims for Accident Insurance Reform
579A Lakeshore Rd E, PO Box 39522
Mississauga, ON L5G 4S6
fairautoinsurance@gmail.com

January 17, 2018

FAIR is a grass-roots not-for-profit organization of Ontario car accident victims and their caregivers and supporters. We support auto accident victims through advocacy and education.

A recent FSCO personal injury case was published with some detail in respect to an Ontario defense lawyer, Harry P. Brown and his actions during the course of a personal injury claim and during an arbitration hearing.

On behalf of Ontario's vulnerable and injured car accident victims who bring their insurance cases to hearings in Ontario's justice system, FAIR asks that you investigate the behavior of Mr. Harry P. Brown as documented in the attached FSCO decision S.P. and RBC General (now Aviva) 5453. The FSCO arbitrator's words lead us to believe that this case calls into question whether Mr. Brown's conduct meets the standards and expectations of the LSUC/LSO and the Rules of Professional Conduct.

The questionable tactics articulated in this FSCO decision, in respect to how a highly experienced lawyer treated a 17 year-old young lady who was catastrophically injured, surely undermines public confidence in the legal profession. Mr. Brown may or may not have used similar strategies in other cases where MVA victims may have been intimidated into settling and we'd ask that you also look at other cases under Mr. Brown's control in the same time period.

Some of what the FSCO arbitrator comments on is far from acceptable whether it be Mr. Brown's stating the "Applicant looked too pretty to be sick" to Mr. Brown making accusations that the claimant was a Sunshine girl when it wasn't her - and Mr. Brown also "swore an affidavit affirming this Sunshine girl to be the Applicant when it was proven to be someone else. This photo and others that were not of the Applicant were sent to many witnesses as evidence, when in fact it was not the Applicant in the pictures."

There was also more than one attempt to use the claimant's mother's health records which raises the question of how the insurer's lawyer, Mr. Brown, was able to access those private and confidential documents and whether these attempts to introduce these files as evidence was itself a form of intimidation.

The arbitrator also found: "Further, the conduct and borderline harassment demonstrated by the Insurer as it related to some witnesses that the Insurer called is rarely ever seen. The Insurer had its investigator attempt to serve witnesses in a hostile and confrontational manner, including threatening to have witnesses arrested if they did not comply with their summons. In addition, the Insurer used photocopied pre-signed summonses to serve individuals, which did not afford an Arbitrator or FSCO the opportunity to oversee who was being summonsed and why. It left the Insurer with unchecked power in which it overstepped its bounds on numerous occasions. Insurer's counsel misled the court when requesting a bench warrant and stated before the court that a witness failed to attend this Hearing when in fact Mr. Brown knew that this was false."

We ask that you investigate this matter in the public interest. I look forward to hearing back from you.

Sincerely,
Rhona DesRoches
FAIR, Board Chair

June 2016, V10