



# Bougadis, Chang E-Newsletter

July 2009

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## Insurance and Personal Injury Reporter

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Welcome to the first edition of the Bougadis, Chang LLP monthly e-newsletter. We will review important developments in the areas of insurance and personal injury law. The topics in this month's e-newsletter are:

- [What's New at Bougadis, Chang LLP](#)
- [Motor Vehicle Accident Update - recent Bill 198 threshold decisions](#)
- [Civil Litigation Update](#)

## What's New at Bougadis, Chang LLP

We are pleased to release our newly redesigned website, which is available in:

- English;
- Greek;
- Punjabi;
- Chinese (simplified); and
- Chinese (traditional).

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*"Our office has moved to  
55 Adelaide St E,  
Toronto, effective August  
1, 2009*

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Visit our [BLOG](#) for the latest updates on the law!

## Civil Litigation Update

- **E-Laws.** You can now use Ontario's e-laws website as an official source of legislation

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*"Ontario's Rules of Civil Procedure are expected to be revised effective January, 2010."*

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- **Anticipated changes to Ontario's Civil Litigation System.** Starting January 1, 2010, they may include:

- o Simplified Procedure jurisdiction being increased to \$100,000;
- o Small Claims Court jurisdiction being increased to \$25,000; and
- o limiting the scope of Discovery to 7 hours, after which leave is required.

- **Review of Bill 198 regime (motor vehicle accidents).** FSCO recently submitted their recommendations on same.



Gregory L. Chang

## Motor Vehicle Accident Update – recent Bill 198 threshold decisions

We will review these five cases which deal with the Bill 198 threshold:

- **Nissan v. McNamee** (2008 Ont. S.C.) - first case to deal with the Bill 198 threshold
- **Guerrero v. Fukuda** (2008 Ont. S.C.)
- **Sherman v. Guckelsberger** (2008 Ont. S.C.)
- **Ali v. Consalvo** (2009 Ont. S.C.)
- **Sabourin v. Dominion of Canada General Insurance Company** (2009 Ontario Superior Court)

## Historical Background

The Ontario regime governing motor vehicle accidents underwent significant change in 2003 under Bill 198 affecting the provisions of the Insurance Act and the Regulations.

As with the previous MVA regimes, it has taken some time for the current Bill 198 'threshold' for the pain and suffering damages to be reviewed but we now have what appear to be the first two cases dealing with the Bill 198 threshold.

From 1994 to 1996, the Bill 164 MVA regime introduced a threshold for entitlement to pain and suffering damages - the injury had to be 'serious disfigurement or serious impairment of an important physical, mental or psychological function' - as well as a \$10,000 deductible. The Bill 59 MVA regime (from 1996 to 2003) made the threshold for entitlement to pain and suffering damages more difficult to meet - the injury had to be 'permanent serious disfigurement or permanent serious impairment of an important physical, mental or psychological function' - as well as increasing the deductible to \$15,000.

The Bill 198 MVA regime (starting October 1, 2003 and continuing to date) as defined, in the Regulations, what the threshold of "permanent serious" should consider. It also increased the deductible to \$30,000.

It is the interpretation of the Bill 198 threshold for entitlement to pain and suffering damages that the above cases consider.



*George A. Bougadis*

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*"Visit our blog for the latest updates in insurance and personal injury law"*

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