

- FEB 8** UHN's Mild Traumatic Brain Injury Conference 2013
McLeish Orlando LLP sponsored UHN's Toronto Rehabilitation's 5th Annual mTBI Conference: *Challenges & Controversies in mTBI: The Science and Clinical Management of Concussions*. John McLeish and Patrick Brown presented.
- FEB 10** Ontario Bar Association's Insurance Law 2013 Conference, The Great Debates in Insurance Law
Patrick Brown co-chaired the program and Dale Orlando debated the issue on Effective Strategies in Lumping Out and Settling Accident Benefits.
- FEB 27** Step Up! ABI Recovery, Brain Injury Services Conference 2013
McLeish Orlando LLP was pleased to support this one-day conference entitled "*I Think, Therefore I Am.*" Cognitive Rehabilitation for those with ABI.
- MAR 7** University of Toronto, Female Litigation Panel
Kate Mazzucco participated on a panel of female litigators for University of Toronto Law Students discussing issues faced, balancing personal and professional life.
- MAR 11/13** Alberta Civil Trial Lawyers Association Anatomy of a Personal Injury Case
John McLeish co-presented with Stephen Mader on *Case Study of a Brain Injury* in Calgary and Edmonton.
- MAR 23** BIAWW's 6th Annual Mid-Winter Indoor Golf Classic
McLeish Orlando is proud to be a platinum sponsor in support of the Brain Injury Association of Waterloo-Wellington.
- APR 3** Ontario Bar Association's Motor Vehicle Tort Litigation in Ontario: Critical Updates Program
Patrick Brown will be participating in a panel discussion on Plaintiff and Defence Perspectives on the *Deductibility of Collateral Benefits, Advance Payments and the Impact of Bill 34/10 and Bill 36/10*.
- APR 9/10** The Canadian Institute's 13th Annual Managing and Litigating Disability Insurance Claims
Salvatore Shaw will be participating in a discussion *How to Best Leverage the Use of Surveillance and Investigation in Court*.
- APR 10** Osgoode Professional Development Program, Expert Evidence in Personal Injury Cases
Dale Orlando will co-chair the program and present *Practical Considerations in Choosing, Retaining and Educating Experts*. Rikin Morzaria will act as counsel in a mock trial.



- APR 18/19** Law Society of Upper Canada's Oatley McLeish Guide to Motor Vehicle Litigation
John McLeish will co-chair this program. Kaitlyn MacDonell will present *A How-To Procedural Compendium by Region*. Patrick Brown will present *Examinations for Discovery: Pitfalls and Pearls*. Rikin Morzaria to present *The Top 5 Tort Cases of the Last Year* and John McLeish to moderate *Everyday Ethical Dilemmas Faced by Advocates*.
- APR 30** Practical Strategies Webinar – New Developments in Auto Insurance Law Impacting You and Your Clients
McLeish Orlando is teaming up with Oatley Vigmond to present an update on the evolving challenges of working in the constantly changing auto insurance system.
- MAY 2/3** The Advocates' Society National Expert Witness Academy
Dale Orlando will co-chair this program and Joseph Cescon will present at the 3rd Annual program entitled *Testify Without Fear!*
- MAY 2** OMA PM&R Scientific Session Conference
Patrick Brown to present "*The Psychiatrist and the Injured Litigant: Dealing with the Victim, Reports, Lawyers, Courts, Forms and Getting Paid.*"
- MAY 3** OTLA Conference
Rikin Morzaria to present the Mary Carter and Pierringer Agreements.
- MAY 7/9** Wigmore on Alcohol: Forensic Toxicology for the Frontline Practitioner
Dale Orlando and Joseph Cescon will present on *Personal Injury Accidents and Alcohol*.
- MAY 9/10** Hamilton Health Sciences 20th Anniversary ABI Conference
McLeish Orlando LLP is supporting the 20th Anniversary Conference on Neurobehavioural Rehabilitation in Acquired Brain Injury the focus is on *Innovative Strategies for Issues Complicating Brain Injury*.
- MAY 13** Osgoode Professional Development CLE, The Osgoode Certificate in Personal Injury Law
John McLeish will be acting as a Plaintiff's Counsel in a mock trial demonstrating using evidence to your benefit.
- MAY 15** Experts Program, Speaking on Use of Expert Demonstrative Evidence
Patrick Brown to present on Use of Expert Demonstrative Evidence.
- JUNE 6** Ontario Bar Association, Expert Evidence and Expert Testimony
John McLeish and Rikin Morzaria will be presenting at the OBA's Expert Evidence and Expert Testimony half-day program.
- JUNE 13** PIA's Practical Strategies Conference
McLeish Orlando teamed with up with fellow PIA firms to host a One-Day Conference for Health Care providers, the conference will focus on *Catastrophic Impairment: A Look into the Future*.

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SPRING 2013

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What Everyone Needs to Know About Concussions *by Charles H. Tator, MD, PHD.*

Concussions have become a major public health problem in Canada. It is now recognized that concussions are brain injuries, and they need to be managed properly. Unfortunately, there is very little effective treatment, and thus, prevention needs to be enhanced. Everyone must learn about concussion including how to recognize the symptoms and signs of concussion, and the principles of management. Parents must recognize concussion in their children who frequently participate in high risk activities, especially in sports and recreation. Those with responsibilities towards the elderly must be especially vigilant because older people frequently sustain concussions through falls at home. Other venues for concussion include motor vehicle crashes, and injuries at work.

The Concussion Spectrum of Disorders

We now recognize that the concussion spectrum of brain injuries include both acute concussions and the second impact syndrome (concussed person receives a second brain injury before complete recovery). Also included is the post concussion syndrome which can persist for months or years after a concussion. Repetitive concussions can also cause brain degeneration leading to dementia and movement disorders similar to Alzheimer's and Parkinson's diseases. Recently, there have been major advances in our understanding of concussion and its consequences which have created the additional burden of keeping everyone "up to speed".

Diagnosis of Concussion

Although it is highly desirable for all persons to recognize the signs and symptoms of a concussion, a medical doctor should be responsible for the actual diagnosis. At present, the diagnosis must be made clinically because there is no proven biomarker, such as an imaging or computerized mini-neuropsychological test. Thus, the diagnosis of concussion is made by a knowledgeable medical doctor and a compliant patient. Unfortunately, in the absence of either ingredient, accurate diagnosis and management may be impossible. The current definition of concussion is any alteration of mental function due to a blow to the head or other part of the body. Loss of consciousness occurs in a minority of cases.

A useful diagnostic aid for practitioners is the clinical testing protocol known as the Sport Concussion Assessment Tool, Version 3 (SCAT3) that lists 22 possible symptoms of concussion, the presence of only one of which is required to qualify for the diagnosis of concussion. SCAT3 and other management information is present on the ThinkFirst website, www.thinkfirst.ca.

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McLeish Orlando's 3 Principal Partners Named in Best Lawyers

We are proud to announce that John McLeish, Dale Orlando and Patrick Brown have been recognized for their excellence in the practice of plaintiff personal injury law in the 2013 edition of Best Lawyers in Canada.

Best Lawyers is the oldest and most respected peer-review publication in the legal profession. In order to compile their list of the most outstanding legal professionals, Best Lawyers conducts a rigorous national survey ranking individual lawyers and firms across numerous key areas of expertise.

Special congratulations go to John McLeish, who Best Lawyers has named Lawyer of the Year for the second consecutive year. For 2013, John was named as the Lawyer of the Year for Personal Injury Litigation in Toronto. Only a single lawyer in each practice area in a designated area is chosen. John McLeish was also named Lawyer of the Year in 2012 for Insurance Law in Toronto and has been listed in Best Lawyers since 2006.



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Supreme Court of Canada Brings a Happy Ending to the Legal Odyssey of the Deering Sisters & Alex Heroux

In July 2006, we told you about Erica Deering and her sister Shannon Deering, and how they suffered serious spinal cord injuries in a motor vehicle collision. On August 10, 2004 Shannon was driving her sister and a friend, Alex Heroux along a 2 lane, hilly road at night to see a movie in Oshawa. Alex suffered a traumatic brain injury and multiple orthopaedic injuries.

From the day of the collision, the sisters and Alex started to rebuild their lives. Part of that rebuilding process involved a lawsuit against City of Oshawa and the Township of Scugog, for failing to keep the road Shannon was driving on in a reasonable state of repair.

Erica and Alex retained McLeish Orlando and the municipalities retained a very capable lawyer who aggressively defended the claim. The case went to trial which lasted six weeks. Both sides hired experts on the issue of road repair and road design. Both sides gave differing opinions on the responsibility of the municipalities regarding design and maintenance. Justice Howden, the trial judge reserved his decision in order to consider the case.

In October of 2010, Justice Howden rendered his decision. He determined that the municipalities were largely responsible for the collision because of the poor design of the road and lack of adequate pavement markings.

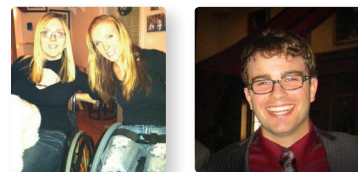
Erica, Shannon and Alex were elated and hoped that their legal battle was over. However, the municipalities appealed the decision of Justice Howden to the Ontario Court of Appeal. The appeal was heard on June 4, 2012 by three members of the Court of Appeal, which ultimately dismissed the appeal by the municipalities.

Once again Erica, Shannon and Alex hoped the legal fight had ended. However, the municipalities requested leave to appeal to Canada's highest court, the Supreme Court of Canada. On December 20, 2012, the Supreme Court of Canada dismissed the Defendants' application for leave to appeal. The legal odyssey that began on a back road on August 10, 2004 was finally over.

Throughout their 8 year legal struggle, Erica, Shannon and Alex never gave up. They were an inspiration to all of us who had the privilege of working with them. They all received settlements that will secure their future and that will ensure all of their future and allow them to live independently.

Erica is in Florida completing her post-secondary studies. Shannon, who wanted to be a teacher before the accident, now volunteers at a Port Perry elementary school. Alex is at the University of Western Ontario completing a Masters in Bio-Medical Engineering.

All of us at McLeish Orlando are very proud to have had the opportunity to have represented Erica and Alex and play a part in helping them rebuild their lives.



From left to right:
Shannon Deering,
Erica Deering and
Alex Heroux.

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Management of Concussions

It is a standard of practice in Canada that every concussed person should be evaluated by a medical doctor, and that the medical examination should occur within a reasonably short interval of time. Rest is the most important aspect of initial management, and now includes both physical and mental rest. For players and others rest is step 1 and usually lasts only 1-2 days of the 6-step return to play guidelines. When all symptoms have completely disappeared, step 2 is instituted which is light physical exercise such as walking. The 6 graduated steps can be sport-specific with at least 24 hours between steps (see www.thinkfirst.ca for a complete description of the 6 steps). Progressive exercise is used as a measure of brain recovery rather than as a therapy, because as indicated above there is no proven treatment for acute concussion other than rest. With six steps and at least one day between steps, the earliest a concussed athlete can return to play is one week, and most experts double that for children and youth. Return to school and return to work guidelines must be individualized with respect to the activities allowed and their duration as guided by a medical doctor.

With continuing residual symptoms, athletes should not return to play. If the post concussion syndrome lasts several months then permanent non return to collision sports should be considered. Permanent non-return is recommended for persisting cognitive dysfunction revealed by detailed neuropsychological testing. The criteria for permanent non-return also include permanent neurological deficits, movement disorders, and lesions seen on CT or MRIs.

Conclusions

Although concussions are being recognized more accurately and management has improved, there is a need for continuing education. There are major shortcomings in our knowledge about the acute and chronic phases of single and repetitive concussions. Further research is needed to elucidate biomarkers of concussion based on imaging, neuropsychology, electrophysiology and genetics.

Coroner's Report on Pedestrians and Cycling

McLeish Orlando LLP is passionate about and committed to cycling. Many of our lawyers and staff are avid cyclists riding to and from work. Cycling is promoted within the firm and we have established secured parking for bikes, showers if needed, and memberships to Cycle Toronto.

Unfortunately, we have also represented the families of cyclists who have been killed along with hundreds of seriously injured cyclists. It is for this reason, that we have made a commitment to make our roads safer for cyclists. In addition to running the Toronto Helmets on Kids program we have and will continue to provide pro bono services to ensure safer infrastructure is created on our roads.

In the summer of 2011, Patrick Brown and Albert Koehl (a fellow lawyer and cycling advocate) formed and represented a coalition of concerned and dedicated groups which included Advocacy for Respect for Cyclists, TCAT, Hoof and Cycle, Cycle Toronto, 8-80 Cities and the United Seniors Citizens of Ontario. They approached the Office of the Chief Coroner of Ontario (Coroner) requesting that a review of cycling and

pedestrian deaths in Ontario be undertaken. Their request was well received and Patrick and Albert represented the coalition throughout the review, which took place in 2012. In June 2012, the Coroner released its Cycling Death Review, a review of all accidental cycling deaths in Ontario from January 1, 2006 to December 31, 2010. The Pedestrian Death Review, a review of all accidental pedestrian deaths in Ontario from January 1, 2010 to December 30, 2010, was released in September 2012.

The majority of recommendations advocated by Patrick and Albert on behalf of the coalition were adopted in the final recommendations. They included the adoption of "complete streets" which promotes equality among road users and the call for more bike lanes. The adoption of one metre passing law under the Highway Traffic Act, reduced speed zones, paved shoulders, and increased education of all road users. These are only a few and the entire reviews and recommendations can be found at <http://ow.ly/ih8WT> and an electronic copy of the The Pedestrian Death Review can be found <http://ow.ly/ih95i>. The Reviews and recommendations

are a significant steps towards decreasing cyclist and pedestrian deaths and injury. In August 2012, Patrick attended and spoke at the United Senior Citizens Convention. He was pleased to have them pass a resolution requesting that the government implement the Coroner's recommendations.

In January of this year Patrick, Albert, and Cycle Toronto attended at the offices of the Ministry of Transportation Ontario regarding the much needed changes to our laws and roadways. Through their efforts they also shared the 2012 "Active Transportation Champion of the Year Award" from the Toronto Centre for Active Transportation".

Patrick and McLeish Orlando LLP will continue to advocate on behalf of cyclists and pedestrians, both inside and outside the courtroom, to ensure that they can travel safely and enjoy the benefits of an active lifestyle.