

THE fine PRINT

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Alvin Hermanson Can't Be Stopped

How a hardworking cattle rancher found new joy in life after injury.

Alvin Hermanson always had a hardworking spirit. A married father of four, he lived on, and managed a bustling cattle ranch in Standard, Alberta, where he was always looking ahead to the next task or project. At age 54, Alvin had no plans to retire early or slow down. Unfortunately, his life took a dramatic turn nearly nine years ago, and it was Alvin's resilience and dedicated treatment team that helped him on the road to recovery that followed.

Alvin was in Sudbury, Ontario on a crisp fall morning in November 2011, about to make his way back to Alberta. He was violently struck by a pickup truck as he crossed the street to get to his own pickup truck. He suffered serious orthopedic injuries and a traumatic brain injury.

Emergency medical personnel rushed Alvin to Health Sciences North, where he remained in critical condition for several days and had surgery. Once his condition stabilized, Alvin's medical team flew him to the Peter Lougheed Centre in Calgary, Alberta, where he underwent multiple further surgeries, and had numerous inpatient stays to address infections and complications.

The months and years that followed involved a rigorous treatment regimen coordinated by a dedicated team of healthcare professionals, whose goal was to help Alvin move forward and get back to his life. McLeish Orlando and Alvin's treating occupational therapist, Christine McCully, played instrumental roles in selecting the rehabilitation team that would help Alvin in his journey to recovery. In particular, several members of Alvin's treatment team came from the same rural backgrounds as he did. This made it easy for Alvin to relate to his team and facilitated his recovery.

Throughout his journey, Alvin maintained an unwavering attitude towards

his treatment—his focus was always on getting better despite his serious injuries. With the support of his team, Alvin returned to many of the farming tasks he handled before the collision. In his free time, Alvin is also starting to enjoy new hobbies. Recently, Alvin took up gold panning. He loves this new pastime which allows him to spend time outdoors in the mountains.

Alvin also learned about the importance of time when healing from a traumatic brain injury. Indeed, some days are better than others. On the harder days, Alvin tries to find a project or task to complete that will make him feel productive. Rather than focusing on the tasks he cannot do, Alvin chooses to help with the things he can do. Even something small, he says, can help him get through.



Alvin Hermanson can't be stopped.

Alvin is grateful for all the support his loving wife Alanna, his family, his rehabilitation team, and Patrick Brown's legal team at McLeish Orlando have provided over the years.

McLeish Orlando is proud to have played an important role in Alvin's powerful story of perseverance and to have reached a successful resolution of his claims. Looking ahead to the future, Alvin and Alanna hope to spend more time together. They plan on

helping their children and their growing families while maintaining independence living on the farm. There are still many projects that Alvin and Alanna anticipate tackling in the months to come. They are grateful for their peaceful place in the prairies and look forward to having "more sunset time" as they enter their golden years together.

J.J.V JEVCO INSURANCE

- 2020 CANLII 30393 (ON LAT)

The Licence Appeal Tribunal has re-affirmed that newly acquired vehicles are automatically covered under existing automobile policies for the first fourteen days after purchase. This in spite of the insurer's objections that the applicant subjectively believed his motorcycle not to be insured at the time of the accident and the fact that the insurer did not offer insurance coverage for motorcycles.

In *J.J. v Jevco Insurance*, 2020 CanLII 30393 (ON LAT), Vice-Chair Flude concluded that the applicant was insured to drive his motorcycle at the time of the accident, and not precluded from receiving income replacement benefits, visitor expenses, and housekeeping and home maintenance benefits. Jevco Insurance had sought to deny these benefits on the basis that the applicant was driving his motorcycle when he knew, or ought to have known, it was not insured at the time of the accident, relying on s. 31(1)(a) of the Statutory Accident Benefits Schedule, O Reg 34/10.

The applicant's pick-up truck was insured under a policy with Jevco. On July 4, 2016, the applicant contacted his broker to inquire about adding coverage for a Harley Davidson.

He acquired the Harley on July 5, 2016 and continued to follow up with the broker to secure coverage.

On July 16, 2016, the applicant was seriously injured when he was ejected from his motorcycle. He was later declared catastrophically impaired.

Adjudicator Flude found that the applicant had not advised Jevco that he had purchased the motorcycle, nor did he believe the motorcycle to be insured at the time of the accident. But that did not matter in the result – the motorcycle was covered under s. 2.2.1 of the Ontario Automobile Policy Owner's Policy. Under this Newly Acquired Vehicle provision, coverage under existing policies extends to newly acquired vehicles where the policy covers all automobiles owned by the insured and the insurer is notified of the new vehicle within the first fourteen days after purchase.

Here, the crash had occurred on the eleventh day and there had been no notice to the insurer.

The applicant relied on the lower court and appellate decisions in *Hunter Estate v Thomson* for the proposition that coverage was automatic for the first fourteen days regardless of notice, and Vice-Chair Flude agreed.

Jevco was unsuccessful in its attempt to distinguish the case based on, among other things, vehicle-type and risk to the insurer. In essence, Jevco argued, coverage could only extend where the newly acquired vehicle was of a similar type to the one already insured – which it argued the motorcycle was not. Vice-Chair Flude disagreed, and found that there was no such limitation to the definition of newly acquired vehicles on a plain reading of s. 2.2.1,

[24] ...Section 2.2.1. speaks to newly acquired automobiles. It does not limit itself to like automobiles or automobiles intended for a similar use. Had that been the intention of the drafters of the policy, it would have been explicitly stated. The policy defines the coverage. Jevco must be understood to have known the risk it was covering and that a newly acquired vehicle might be a motorcycle, notwithstanding that it does not cover motorcycles.

Vice-Chair Flude concluded that the applicant had insurance coverage on the day of the crash and hence was not precluded from receiving the benefits in dispute.

Why does this matter?

Even though an insurance company says a vehicle is not insured under an existing policy when an accident happens,
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McLeish Orlando selected as finalist for Ontario Law Firm of the Year in the Canadian Law Awards 2020

We were honoured to have been selected as a finalist for the Ontario Law Firm of the Year in the inaugural Canadian Law Awards, presented by Lexpert, and supported by Canadian Lawyer and InHouse magazines.

The Canadian Law Awards celebrated the nation's leading law firms, in-house legal teams, and individuals for their achievements, leadership, and innovation over the past year. The awards event offers a true reflection of excellence from across the legal profession.

For the full list of finalists and winners, visit www.lawawards.ca



2021 Best Lawyers® List

We are proud to announce that McLeish Orlando lawyers have been included in the 2021 edition of the Best Lawyers® in Canada.

Best Lawyers® is a peer-reviewed publication that is well renowned and respected in the legal community.



John McLeish
Recognized since 2006



Dale Orlando
Recognized since 2010



Patrick Brown
Recognized since 2013



Salvatore Shaw
Recognized since 2016



Congratulations to all those listed in the 15th Edition of The Best Lawyers in Canada.

In the Community

BRAIN INJURY ASSOCIATION OF WATERLOO-WELLINGTON'S (BIAWW) GREETING CARD PROGRAM

During the pandemic, organizations like BIAWW, are adapting to maintain support for its members. They are pleased to present a variety of Greeting Cards that are for sale through their website. McLeish Orlando's 2019 and 2020 holiday cards were made by BIAWW's community of brain injury survivors. While BIAWW's local retail card locations are all closed right now, they have online card sales. Learn more about the program here: <http://www.biaww.org/send-greeting-cards.html>

MCLEISH ORLANDO DONATES \$10,000 TO THE BREAKFAST CLUB OF CANADA'S COVID-19 EMERGENCY FUND



In June, McLeish Orlando proudly donated \$10,000 in support of The Breakfast Club of Canada's COVID-19 Emergency Fund Campaign #FeedKidsNow. Back in March, when schools in Ontario closed, and the

severity of the COVID-19 pandemic became apparent. The Breakfast Club of Canada immediately pivoted their approach, and found new ways to safely get nutritious foods and funding, to Canadian children and families who now found themselves facing food insecurity. Seemingly overnight, Breakfast Club of Canada went from supporting school breakfast programs to becoming "Community Food Insecure Emergency Funders" in order to continue to safely support the thousands of children and families who depend on the food they receive from the club every day.

MCLEISH ORLANDO DONATES 300 HELMETS

Although the Covid-19 pandemic prevented us from hosting our traditional bike helmet event, we quickly pivoted and created a contactless pick-up helmet giveaway program. We proudly partnered with both the Brain Injury Association of Waterloo Wellington and the Brain Injury Association of Sault Ste. Marie to safely distribute over 300 helmets to children



in need in Kitchener, Cambridge, Guelph and Sault Ste. Marie. Over the past ten years, more than 3,000 helmets have been donated to kids helmet programs by McLeish Orlando.

A RALLY FOR STRICTER LAWS AND HARSHER PENALTIES FOR IMPAIRED AND DANGEROUS DRIVERS

On Sunday, August 16, 2020, McLeish Orlando safely rallied at Queen's Park in Toronto. We volunteered as marshals, handed out water to all attendees, and made signs to help support the message. Over 100 people, in masks, protested through the rain, calling for changes to both provincial and federal laws.



Following the tragic deaths of Karolina Ciasullo and her three daughters; Klara, Lilianna, and Mila - Jillian McLeod, a Brampton resident, created an online petition calling for tougher laws and harsher penalties, in support of the Ciasullo, Lugiewicz, and Martin families. Currently, the petition has over 100,000 signatures. McLeod was astonished by the amount of support the petition got, along with all of the private messages, tweets, and comments from the community and beyond, sharing stories of how their lives had been impacted by impaired or dangerous drivers and family members who had been killed or seriously injured. This support is what sparked the idea for the rally.

McLeish Orlando Partner, Patrick Brown is representing the families, and is committed to helping them fight for stricter laws and tougher penalties for repeat offenders, impaired and dangerous drivers. Visit justice4families.ca to sign the petition.

MCLEISH ORLANDO VIRTUAL BLOOD DRIVE 2020

While we usually head to a Blood Donation Centre as a group for World Blood Donor Day, this year looked a little different. McLeish Orlando employees participated in a "Virtual Blood Drive." Employees took the time out of their day on June 14, 2020 to head to their nearest Blood Donation Centre to continue to help support the community. Blood donations have decreased because of COVID-19, but the need for blood is still critical. Thank you to those who give blood so that others can live. Donors are essential, it's in you to give.

McLeish Orlando Lawyers Recognized In 2020 Legal Lexpert® Directory Rankings

We are proud to announce that three lawyers from McLeish Orlando have been included in the 2020 edition of the Canadian Legal Lexpert® Directory. Based on an extensive peer review process, this legal directory identifies leading lawyers in over 60 areas of practice across Canada. The Canadian Legal Lexpert® Directory is considered the pre-eminent peer review-based directory of legal practitioners in Canada.

Congratulations to John McLeish, Dale Orlando, and Patrick Brown for being recognized.

2020
LEXPERT RANKED
LAWYER

EVENT CALENDAR

- FEB 13** **Spinal Cord Injury Ontario (SCIO) Ski & Snowboard Day 2020**
Let's hit the slopes! McLeish Orlando was excited to be participating in the 20th Annual SCIO Ski & Snowboard Day. It was a great day in support of SCIO's transformational programs and services for people living with a spinal cord injury.
- FEB 20** **Brain Injury Association Peel Halton's (BIAPH) 15th Annual Bowl-a-thon**
McLeish Orlando was proud to support BIAPH's 15th Annual Bowl-a-thon! Trophies were awarded for bowling skills, but most of all, for attendees' fundraising efforts! All proceeds from the event were directed to BIAPH support programs.
- FEB 21-23** **Toronto Motorcycle Show**
McLeish Orlando attended the Toronto Motorcycle Show to educate riders on insurance they need and talk motorcycle safety.. The Toronto Motorcycle Show is the biggest manufacturers show in Ontario, with a wide-ranging and exciting line-up of exhibitors.
- MAR 11** **5th Annual Spinal Cord Injury Ontario (SCIO) Comedy Night**
Again this year, McLeish Orlando was honoured to sponsor this fun night! SCIO's 5th Annual Comedy Night was in support of people living with disabilities, and the lives of over 36,000 people living with spinal cord injuries in Ontario.
- MAY 28** **PIA Law Practical Strategies Webinar – The Top 20 PIA Law Questions of 2020**
As a member firm of PIA, McLeish Orlando joined an expert panel of personal injury lawyers as they addressed the most pressing issues facing 2020.
- JUNE 15** **Hamilton Brain Injury Association (HBIA) Presents: Virtual 5K**
McLeish Orlando is proud to be a corporate sponsor of HBIA, and we were excited to participate in the first-of-its-kind event. Thank you to HBIA for organizing a great virtual run!
- SEP 17** **2020 Awards of Excellence in Brain Injury Rehabilitation**
As a member firm of PIA Law, McLeish Orlando was proud to virtually present the 2020 Awards of Excellence in Brain Injury Rehabilitation, in partnership with the Ontario Brain Injury Association. Congratulations to all of the nominees and winners!
- SEP 18** **Brain Injury Society (BIST) of Toronto's Birdies for Brain Injury**
It was a beautiful day for golf! McLeish Orlando was excited to attend the Birdies for Brain Injury Golf Tournament. McLeish Orlando, as a member firm of PIA Law, is honoured to be the 2020 Corporate Platinum Sponsor of BIST.
- SEP 21** **Hamilton Brain Injury Association's (HBIA) 5th Annual Drive for ABI Charity Golf Tournament**
McLeish Orlando was thrilled to be a hole sponsor of the Birdies for HBIA's 5th Annual Drive for ABI Charity Golf Tournament.
- SEP 24** **Brain Injury Society of Toronto (BIST) /Ontario Brain Injury Association (OBIA) Nix the Mix**
The BIST/OBIA Mix and Mingle is one of our favourite events of the year! We were grateful that those at BIST/OBIA were able to bring us Nix the Mix - a virtual event that was interactive and fun!
- OCT 2-12** **Brain Injury Society (BIST) of Toronto's 10th Annual Virtual Heroes Run, Walk or Roll**
As a member firm of PIA Law, we helped call all Heroes of Brain Injury for BIST's Heroes Run, Walk, or Roll!
- OCT 28** **Brain Injury Association of Peel Halton's (BIAPH) 2nd Annual Health Advocates Education Conference**
McLeish Orlando was proud to be a Diamond Level Sponsor of BIAPH's 2nd Annual Health Advocates Education Conference. This year, the conference went virtual!
- NOV 12/13** **Toronto ABI Network Conference 2020**
Again this year, McLeish Orlando was honoured to be a Platinum Sponsor of the Toronto ABI Network Conference. The conference took place virtually - it was great to see and interact with the community over webcam!
- NOV 19** **Concussion Update for Legal Practitioners, Insurers, Judges, and Clinicians: Keeping Your Case Moving Forward in a Virtual Environment**
McLeish Orlando lawyer, Lindsay Charles, presented at the Concussion Update webcast - which was a must for those who work in personal injury, insurance, sports administration, workers' compensation, health, education, and criminal law or related practice areas.

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does not necessarily mean that is the case.

The lawyers at McLeish Orlando have extensive experience obtaining Statutory Accident

Benefits for clients and litigating those claims. J.J. v Jevco Insurance is yet another example of a successful disputed denial where an insurer tried to withhold benefits based on what it said was a lack of coverage. On October 7, 2020,

the Licence Appeal Tribunal dismissed Jevco's application for a reconsideration of Vice-Chair Flude's decision. Jevco has since filed a notice of appeal to the Divisional Court. Stay tuned for what happens next!

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