

THOMPSON'S WORLD INSURANCE NEWS

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Insurer plans to appeal special award ruling

STATE FARM is planning to appeal a recent ruling by an arbitrator at the Financial Services Commission of Ontario issuing a rare special award over its treatment of a claimant in a catastrophic impairment case.

It stemmed from a 2008 accident in Bracebridge, Ont., when Thomas Waldock stopped to assist a stranded motorist. His leg was severely injured, requiring several surgeries.

He argued that the insurer unreasonably withheld and delayed payments for attendant care, medical and rehabilitation and housekeeping and home maintenance claims. The insurer disputed the expenses, arguing that Mr. Waldock's injuries did not constitute catastrophic impairment.

Mr. Waldock's counsel, Leonard Kunka of Thomson Rogers,

said the arbitrator found that there was a breach of the obligation of good faith.

"And the arbitrator was upset that the insurer blindly relied on an inadequate report and put its insured through the time and effort required to fight (the claim)," he told *Thompson's*.

He said the arbitrator found that as injuries can deteriorate over time, the deterioration has to be taken into account when assessing possible catastrophic injuries.

"The special award is not granted very often, it is very rare, and before the award is granted the arbitrator has to find that the insurer's conduct was inept."

Toronto-based law firm Samis and Company says in a posting on its website that the case provides an example of a

"worst case" scenario for an insurer.

"It underscores how important it is for claims handlers to assess all of the available information — medical or otherwise — before deciding whether a claimant meets a given definition or disability test under the policy."

It says the case also highlights the risks involved in taking disputed issues to hearings.

"It is somewhat puzzling that the insurer proceeded to participate in a catastrophic determination hearing without calling any witnesses to testify on their behalf. Not surprisingly, the arbitrator had little difficulty accepting the evidence of the various persons who testified over the written reports of those who weren't called to the hearing."

Insurance Institute launches new website

THE INSURANCE Institute of Canada has revamped its advertising strategy to raise awareness about p&c industry credentials.

It revolves around a new website, BeAssured.ca, to which radio spots and advertising placements will link. The website and campaign is presented in English and French.

The institute said the advertising is motivated by an independent Conference Board of Canada report showing that the p&c industry strongly supports its unique credentials.

The website is designed to

reach three different audiences: the general public, professionals with the institute's designation and the insurance industry.

"The benefits of a designation are unique to each audience," the institute said.

Chartered Insurance Professionals told the conference board that they had better opportunities for advancement and better pay within the industry than insurance professionals who did not have a CIP.

And within the p&c industry, employers surveyed by the conference board confirmed that

insurance professionals with a CIP designation are more attractive recruiting prospects because they deliver a higher quality of service to consumers than those who do not have a CIP.

And the institute noted that the general public benefits from insurance professionals taking a designation program to improve the quality of their work.

"By making professionals more trustworthy, more credible and more knowledgeable, designations ultimately make the p&c insurance experience better for customers."

Work continues on transfer of Ontario DRS

A SUMMARY of draft regulations for the upcoming transition of Ontario's auto insurance dispute resolution system cases is expected to be released this month. The draft regulations will be open for public comment for 45 days.

As reported earlier in *Thompson's*, the province's dispute resolution system is being transferred from the Financial Serv-

ices Commission of Ontario to the Licence Appeal Tribunal, an adjudicative body within the Safety, Licensing Appeals and Standards Tribunal Ontario cluster.

The new system at LAT will begin accepting applications on April 1, 2016, with the dispute resolution process streamlined to a single direct review and hearing process in front of an

independent adjudicative tribunal.

The LAT, an existing tribunal, already has procedures in place but will make some changes to its existing rules to accommodate auto insurance dispute resolution cases.

The government said proposed rule changes will be posted on the LAT website for public comment this month.

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