

From Ruth's Desk: Court Ruling Helps Accident Victims with Their Recovery



JANUARY 2022
VOLUME 3, ISSUE 11

Page 1 - 2

From Ruth's Desk: Court Ruling Helps Accident Victims with Their Recovery

Page 2

Self Improvement: Setting Goals for 2022 and Beyond

Page 3

Cooking Corner:
Gingerbread Waffles

Page 4

Just for Fun: Why Do Dogs Tilt Their Head?

About Us: Who Do We Work With at Velocity Injury Law?

As many of you know, you pay premiums for automobile insurance and should you be injured in a car accident, your insurance company is supposed to pay for treatment that is reasonable and necessary to help you in your recovery. As many of you also know, insurance companies many times simply refuse to do so. Sometimes they have no grounds to do so. Part of our job is to dispute the denials received from your insurance company and to help you get treatment **you need**.

At the Licence Appeals Tribunal (the tribunal with whom the dispute is filed), adjudicators have pretty much held that *Oh well* ... If the injured person didn't incur the expense of the treatment before coming to the hearing, that's too bad for them, and the denial survives.

But what if you can't afford the treatment that will help you with your recovery? How is it fair to dismiss your application simply because you don't have the resources to fund the treatment you require.

On September 9, 2021, the Ontario Divisional Court released a ruling against Aviva Insurance Company of Canada, holding that an injured person may dispute entitlement to and the cost of the denied benefits/treatment without being required to prove that they first incurred the expenses of those benefits/treatment plans. This might seem like something trivial, and the decision is based on an accident that happened in 2013, but it is a **huge** victory for accident victims looking for help with their recovery.

What the Court Held

"Incurring" treatment expenses should not be a precondition to accessing the dispute resolution processes of the LAT.

If Aviva's position is accepted, claimants will be required to fund disputed treatment plans in advance of an application to the LAT and will be limited to pursuing payment of only that treatment which they can afford to self-fund. Claimants with limited or no access to funds will be at the mercy of their insurer's goodwill; **this is**

the very power imbalance that the legislation is intended to circumvent.

Aviva's position is untenable on any interpretive approach to the legislation. Not only does its proposed interpretation offend the remedial, consumer-oriented purpose of the legislation and regulations, it also ignores the clear wording of S. 280(1) of the Insurance Act which identifies entitlement and quantum as mutually exclusive issues, and s. 55(1) of the Schedule which is silent on a claimant's failure to "incur" expenses as a restriction to initiating proceedings.

Aviva was ordered to pay the treatment plans, once the cost had been incurred by the accident victim.

Positive Changes to Help Victims Recover

No doubt insurance companies will argue that the because the date of the accident on which the above case is based happened before the 2016 changes to the Insurance legislation, this court ruling should not apply to more recent accidents.

Time will tell if there will be a change in attitude at the LAT. But, folks make no doubt about it, it looks like someone, somewhere, is starting to figure out how some of the positions taken by insurance companies and by the LAT are counterproductive to the intent of the legislation – which was to make treatment available to accident victims as soon as possible to help them with their recovery.

The court did not go so far as to say that the practice of denying the treatment plans was a deceptive act, but this decision gives us encouragement to carry on the fight.

Self Improvement: Setting Goals for 2022 and Beyond

January always feels like a fresh start. We hope that this exercise will help you define and work towards your goals.

My Goal

Start by choosing a category for your goal, such as: relationships, health, professional, or happiness. Then, choose a time-frame for completing your goal. Goals that will take years to accomplish can be defined in broad strokes, whereas your immediate goals should be quantifiable.

My long-term goal is to:

Steps to Achieve My Goal

Break your goal into manageable pieces.

Who Will Hold Me Accountable?

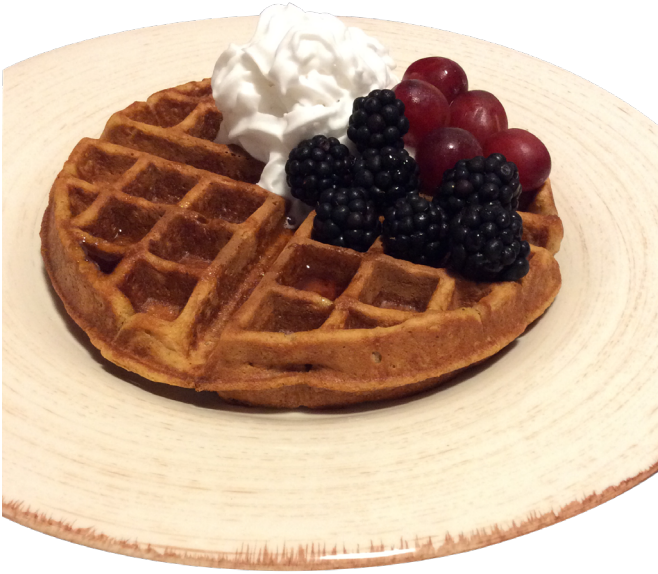
Telling a few people about your goal will keep you accountable for your work.

Resources to Achieve My Goal

What do you need in order to achieve your goal? Money? Time? Training or experience?

How I Will Track My Progress

You can track your progress using an app, a notebook, or a spreadsheet depending upon the type of data that you will be collecting.



Ingredients

- 1 cup all-purpose flour
- 1 cup whole wheat flour
- 1/4 cup white sugar
- 2 teaspoons baking powder
- 1/2 teaspoon baking soda
- 1/2 teaspoon table salt
- 2 teaspoons ground ginger
- 1/4 teaspoon nutmeg
- 1/4 teaspoon cloves
- Zest of 1 lime
- 4 large eggs
- 6 tablespoons unsalted butter, melted and slightly cooled
- 1 cup milk
- 1/2 cup sour cream
- 3 tablespoons molasses
- Maple syrup
- Whipped cream

Cooking Corner: Gingerbread Waffles

Although the holiday season is behind us we can still enjoy festive flavours. This is the perfect recipe for those of us who love to have gingerbread all year long!

Our secret ingredient is lime zest, which brings out the fruity characteristics of the cloves.

This recipe produces **4-5 waffles** depending upon the size of your waffle iron.

Instructions

1. Preheat your waffle maker while you prepare the waffle batter.
2. Whisk together the flours, baking powder, baking soda, salt, spices, and lime zest.
3. In a separate bowl, whisk together the eggs, melted butter, milk, sour cream, and molasses.
4. Mix together the wet and dry ingredients until they're just combined. The batter will be slightly lumpy, but that's OK.
5. Pour the batter into your greased, pre-heated waffle maker and bake according to the manufacturer's instructions. You may not need to add a lot of grease to your waffle maker because the waffles contain plenty of butter.
6. Top your waffles with maple syrup and whipped cream.
7. To freeze your waffles, lay them flat on a baking sheet and freeze them for 2 hours. After the waffles are frozen, stack them in a plastic bag separated by a sheet of parchment paper or waxed paper. Squeeze as much air out of the bag as possible before sealing. The waffles will keep in the freezer for several months.

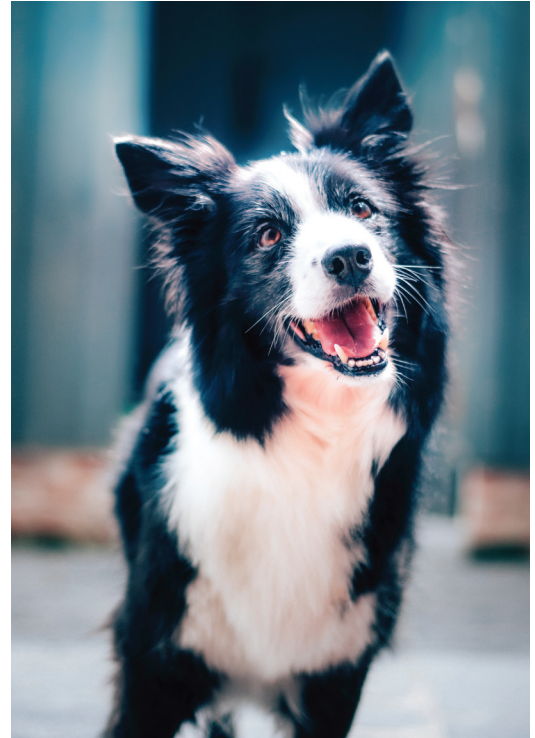
Just for Fun: Why Do Dogs Tilt Their Head?

Did you know that the average dog can remember 165 words? According to several behavioural studies, dogs have comparable mental abilities to a 2 year old child.

Although dogs can only remember 165 words, sometimes it seems like they want to have full conversations with us. They tilt their heads as if they're trying to understand everything we want to say – not just when we're talking about treats and walks!

A new study in *Animal Cognition* suggests that dogs may tilt their heads when they're processing information. A group of highly intelligent dogs tilted their heads when they were recalling the name of a specific toy.

Dogs of average intelligence probably tilt their heads to try and figure out what humans are up to. And maybe they're trying to get more pets for being so darn cute.



About Us: Who Do We Work With at Velocity Injury Law?

- Sometimes our clients are the families of loved ones who have died in a tragic accident.
- Most of our clients became injured as a result of a motor vehicle collision or slip and fall accident.
- Sometimes our clients are residents of a nursing home who have been injured.
- Some clients have not been involved in an accident, but have become ill. They look to us to help them with their short-term and long-term disability claims.
- Most of our clients are from Windsor and Essex County, but occasionally people from other parts of the province request our services. We have some clients in Chatham-Kent, Sarnia, London, Toronto and a few in northern Ontario.

For more information about our services, visit our website: **www.VelocityInjuryLaw.com** or give us a call at **519-946-4300**.

