



## Murphy Battista LLP

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Our File No. S644

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Bert Abbott  
Peer Program Coordinator  
Spinal Cord Injury BC

I write to provide you with a letter setting out our firm's file work. We use the same approach whether it is a paid retainer or work that we do for free.

### Work Restricted to Representing Victims

We do not do any work for insurance companies. We only represent victims and other people who have claims against insurance companies. Because we do not do work for insurance companies, we have not signed any agreements that restrict our ability to represent our clients. There are some lawyers that represent both accident victims and insurance companies. Most of these lawyers have signed agreements with ICBC and other insurance companies promising that they will be nice to them when acting against them for accident victims. We believe this restricts a lawyer's ability to fully represent their client and we have never signed such agreements.

### Contingency Fee Retainers

For paying clients, we offer a contingency fee retainer which means that no fees are paid until there is a recovery. The percentages we charge are typically lower than most other firms. We carry all associated expenses until there is a recovery.

## Free Legal Work

We find the best way to market is not to advertise, but to simply demonstrate our ability to do good caring legal work in the community by doing free legal work for those that are in need. We have developed the following criteria for free legal work:

1. the client has a problem that will cause significant interruption in the otherwise normal enjoyment of their life if a legal remedy is not pursued;
2. the client has a legal remedy with a good chance of success; and
3. the client does not have the ability to pay for a lawyer.

## Trial Experience

The only thing that an insurance company or large organization will consistently respond to positively is a credible threat that a case against it may go to trial. While no client wants to go to trial, they have a vastly superior chance of avoiding trial and securing greater compensation by retaining a lawyer who has a strong track record of going to trial with success. As well, it is important that they retain counsel who are competently able to go to trial should that be in the client's best interest.

Insurance companies respond best to counsel who they know will take cases to trial and have a history of being successful at trial. A case has a greater chance of settling for a larger sum if the lawyer handling it has a history of producing good outcomes at trial. While many lawyers market their abilities based on the cases they have settled, we believe a better measuring stick is the cases that a firm has taken to trial. It is easy to boast a settlement of a case for the sum of \$1,000,000 when the value of the case was in excess of \$2,000,000.

Our reputation as trial counsel is second to none. Over the past 15 years our firm has taken over 150 cases to hearing and we have been successful in about 90% of these cases. The 10% of the cases that are not successful are typically very difficult cases that most other lawyers would never agree to take on a contingency basis. While I wish we could boast a success rate of 100%, I believe it says something about our commitment to our clients that we are prepared to take very difficult cases to trial where our clients require us to do so. Because we have a demonstrated history of taking cases to trial (even the tough ones that are lost), insurance companies take us seriously which increases the chance of good settlement for all of our clients.

In addition to handling some of the toughest cases decided in B.C. in terms of establishing a right to compensation, we have also handled the largest cases in B.C. We have handled 3 of the top 5 biggest cases in B.C. (I think we may have the top 3 spots) which are set out below.

- Wallman v. Gill et al 2014 BCSC 79 resulted in an award of \$5,934,712 and was handled by **J. Scott Stanley** and **Kevin Gourlay**
- Danicek v. AHBL 2010 BCSC 1111 resulted in an award of \$5,924,378 and was handled by **Joe Murphy Q.C.** and **Kevin Gourlay**
- Yeung v. Transportation Lease Systems Inc. 2007 SCC 45 resulted in an award of \$5,800,000 and was handled by **Joe Murphy Q.C.** and **Brian Brooke**

### Switching Lawyers

About 30% of the cases I handle are cases that I have taken over from other lawyers. Often clients hire lawyers very soon after an accident but eventually realize they have not hired the correct lawyer for their situation. Often the case simply becomes too complex and the client recognizes that they need to upgrade their legal counsel.

When we are asked to take over cases from other lawyers, we will agree to charge the same percentage as the initial lawyer and agree to payout the other lawyer from this fee. The result is that the client ends up paying the same fee and is able to upgrade their legal counsel. Often we are able to charge less than the initial lawyer that was hired. It does not cost the client anything more to switch to us. Often the fees will be less.

### General Approach

We work in teams that usually consist of at least 2 lawyers and at least one assistant. We like to have two lawyers on complex files because often one of the lawyers will be out of the office as this is the nature of what lawyers do. As well, when cases proceed to trial we always have two lawyers conduct the trial. The assistant is almost always in the office and able to answer questions.

The work we do is essentially broken into several segments.

Investigation – much of our initial work will focus on gathering the necessary information to assess and prove the claims. We prioritize the investigations that can be compromised with the passage of time.

Rehabilitation – we see to it that an environment is created that allows the opportunity for the best possible rehabilitative outcome. We consider it part of our retainer to be actively involved in this process. In many instances, necessary and important rehabilitation services are not available through MSP coverage and must be engaged privately. We attempt to secure funding for any such services through available insurance policies that you may have. If no coverage is available, we are prepared to fund services so that there is no interruption in the rehabilitation. We want to create an environment that will create the best chance for the best recovery.

Assessment – once we have sufficient information to assess a value for a cases, we will do so. This will not take place until the full nature of the injuries and disability is known and the maximum expected recovery has occurred.

Resolution – we will make efforts to settle the case and failing that we will take it to trial. Although the majority of our cases settle, it is our practice to prepare every case as though it will proceed to trial. We find this allows our clients to have a greater chance of settling their claims for the best possible outcome. Our reputation with insurers is that we will not hesitate to take a case to trial. As a result, we are usually able to settle a good number of our cases and getting every case ready for trial is consistent with this approach.

### References

We are able to provide reference upon request.

You can go to our website at [www.murphybattista.com](http://www.murphybattista.com) and check out the cases that each lawyer has handled.

My direct line is (604) 633-3816 and my cell phone number is (778) 987-9621.

Please do not hesitate to contact me if you want further information.

Take care.

Yours truly,

**MURPHY BATTISTA LLP**

Per:

**J. Scott Stanley**  
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