

Good and bad in all systems

RIGHT SIDE OF THE LAW

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Clients often tell me, “Oh if I got injured in the U.S., my recovery would be better.” That is not the case.

As someone who studied in U.S. and got her law degree there, I can tell you that while our U.S. counterparts have some good points to their regime, they also have a lot of bad.

The Bad:

1. In places like Florida, there are many people with \$20,000 insurance policies. So if you are injured badly, you will likely only recover

their policy limit. This is unlike Ontario where most policies are \$1 million.

2. They rarely pay out on soft tissue injuries. New York and Florida, for example, rarely pay out on soft tissue or chronic pain without objective corroboration of the injury. Here the Supreme Court of Canada said chronic pain is a real thing and compensable.

The Good:

1. Many states such as Nevada have no limits on liability, so if you are injured and the person has sufficient coverage you are not limited to a restrictive maximum. In Canada, there are limits on pain and suffering set by the Supreme Court of Canada.

2. The U.S. tends to have very tough restrictions on bad faith. If insurance companies do not comply with their obligations, they are penalized financially.

This usually means the process moves quicker and companies pay out their limits in a timely manner. In Ontario, we have bad-faith legislation but it is very difficult to succeed on these claims. I just had an adjuster ask our firm to supply the ripped clothing from a child to prove his clothing was damaged after he was mowed down by a motor vehicle (welcome to my world).

There is good and bad in all systems. The point is we elect officials who do not corrode our rights further and put changes in place to streamline our system to make it faster, efficient and fair. ■

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