



carranza LLP

Multiple languages. Singular focus.



Kevin Doan B.Sc.(Hons), J.D., C.S.

Barrister & Solicitor

t. 416-633-1065 **e.** kdoan@carranza.on.ca

languages spoken

Vietnamese and English

specialities

Personal Injury Litigation, Motor Vehicle – Accidents, Accident Benefits and Tort Claims, Long-Term Disability, Slips and Falls, Serious Brain Injuries, Quadriplegia, Paraplegia, Deaths, Serious Orthopaedic Injuries, and Chronic Pain.

Growing up in a country where lawlessness ruled, Kevin is a witness and survivor of war and great injustice. As a political refugee from Vietnam, Kevin arrived in Canada at the age of 15 and worked to eventually become an advocate who strives to stand up for some of the most vulnerable members of our society – the victims of personal injuries.

Law represents a unique opportunity to contribute to society and today Kevin feels this even more strongly than ever before. Kevin considers his biggest strength to be his passion to work for the injured, the downtrodden and the lost when facing a complex legal system. His goal is to settle his clients' claims as quickly as reasonable fairness requires, but his extensive trial and arbitration experience speaks to his readiness to protect his clients' rights when reasonable settlement cannot be reached.

Kevin has been certified by the Law Society of Upper Canada as a Specialist in Civil Litigation, having fulfilled the professionalism, knowledge and experience standards as set out by The Law Society. Certified Specialist in Civil Litigation represents the highest formal certification of experience for

personal injury lawyers in Ontario, where fewer than 2% of lawyers are Certified Specialists. Kevin frequently represents clients before the Financial Services Commission of Ontario and has argued before all levels of the Ontario Superior Court of Justice including the Divisional Court and the Court of Appeal. Some of his cases set legal precedents in Ontario.

Elected to the Board of Directors of the Ontario Trial Lawyers Association, Kevin believes that each lawyer has a duty to society to attempt to implement positive change for the benefit of the community at large. On this Board, Kevin enjoys working with talented and dedicated lawyers from across the province to attempt to find innovative ways of improving the personal injury bar in Ontario.

education

Admitted to Ontario Bar (1996)

Juris Doctor, Osgoode Hall Law School (J.D., 1994)

Bachelor of Science, University of Toronto (B.Sc. (Hons), 1988)





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memberships

The Law Society of Upper Canada

Ontario Trial Lawyers Association

The Advocates' Society

Ontario Brain Injury Association

American Association for Justice (formerly
the American Trial Lawyers Association)

achievements

Certified by the Law Society of Upper
Canada as a Specialist in Civil Litigation
(C.S., 2008)

Elected Director of the Ontario Trial
Lawyers Association (2008-present)

publications and articles

Don't Stop Trying – Your Client's Duty to
Mitigate (presented at the Ontario Trial
Lawyers Association 2007 Fall Conference)

Pushing the Envelope – How to Get Around
the Limitation and Arguing Discoverability
(presented at the Ontario Trial Lawyers
Association Spring 2010 Conference)

noteworthy cases

Garcia vs. Liberty Mutual No.1; Mariona v. Canadian General

Two insurers were found by Arbitrators
at the Financial Services Commission of
Ontario to have unreasonably delayed
accident benefits to his clients and special
awards were ordered to be paid by the
insurers, in addition to the accident
benefits owing.

Pham v. Progressive Casualty

An insurer was ordered to pay “interim”
income loss benefits to his client well in
advance of an arbitration hearing. This is
a remedy which is difficult to obtain and
is rarely argued successfully. In this case,
Kevin was successful in getting full income
replacement benefits paid by the insurer
plus interest without waiting for many
months for a full arbitration hearing to
take place.

Branco v. Allianz

In a motion at trial during jury deliberations,
a Judge of the Superior Court of Justice
found that his client met the threshold which
required permanent and serious impairment
of an important bodily function, despite the
fact that she sustained only soft-tissue injury
with no fractures, did not have objective evi-
dence of injury and had returned to work.





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Garcia v. Liberty Mutual No.2

An insurer was ordered to pay a higher amount of loss of earning capacity to his client. In this decision, a residual earning capacity report by a Designated Capacity Assessment which stated that his client should not receive any income loss was rejected by an Arbitrator at the Financial Services Commission of Ontario. The Arbitrator accepted the disability of his client and awarded loss of earning benefits despite a finding that his client was not a credible witness.

Branco v. Epshtein

In a serious brain injury case, a young university student was injured in a car accident following a freezing rain winter storm. Kevin sued the Ministry of Transportation and the other parties involved in the accident. Although his client suffered no fractures other than a broken nose, he was able to achieve a large settlement out of

court which fully compensated his client for the rest of his life without the need of a trial.

○

In another case, the insurer for the defendant did not make an offer to settle and the case went to trial.

At trial, the trial judge made a serious omission in his charge to the jury. His client was successful in persuading the higher appeal court that the jury charge delivered by the trial Judge (which apparently was the standard jury charge in the Province of Ontario at the time) omitted an important explanation on the law of mitigation such that a miscarriage of justice occurred.

This appeal decision sets a legal precedent to assist trial judges in Ontario to correctly explain the law of mitigation to juries. A new trial on damages was ordered without the need to again prove that his client was entitled to damages for pain and suffering. The case subsequently settled out of court.

○

A former lawyer settled his client's accident benefit claims for a very small amount of money, less than half of one year's income loss. This victim then retained him to seek fair compensation. Kevin was able to re-open the claims that were settled and successfully sued the no-fault insurer as well as the former lawyer. He was able to obtain accident benefits and settlements from the no-fault insurer and the former lawyer for his client. As a result, his client who was only in his thirties and married with young children when the accident occurred was fully compensated for the rest of his life.

○

After a pedestrian was struck while running across the road in the rain, the police reported that he was trying to commit suicide by standing at the side of the road, looking at the driver and then diving like Superman in front of the car which struck and pinned him for 30 minutes. Three other law firms rejected the case.

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The victim then retained Kevin who personally attended the out of town location of the accident to analyze liability and took the unusual and difficult step of suing the driver of a vehicle who witnessed the collision, in order to ensure that he kept the driver who struck his client honest.

After many court appearances and despite objections from the lawyer for the witness driver, it became clear that the information in the police report was completely unfounded as the driver who struck his client was forced to be honest and admitted that there was no attempted suicide. Only thereafter that a fair and substantial compensation to his client was eventually achieved.



In a tragic case, a mother was rendered quadriplegic and her son suffered serious brain injuries. Kevin quickly obtained accident benefits for the mother including the purchase and building of a new wheelchair accessible home for the family in the location of her choice, close to friends and

relatives and an eventual large settlement out of court for her.

As to her son, because he was only 10 years old at the time of the accident, he was not entitled to a payment of loss of income or loss of earning capacity according to the caselaw (*Zehr vs. Dominion*) at the Financial Services Commission of Ontario.

Kevin strongly disagreed with the caselaw and believed that the law was wrongly decided. He took the son's claim for income loss to the Superior Court to avoid the unfavourable caselaw at the Commission. He waited for new caselaw to come from the Superior Court or to argue to make new law from his case.

Eventually, a favourable caselaw came out which contradicted the previous authorities and which agreed with Kevin's interpretation.

Kevin's strategy served his young client well as he was able to achieve a significant settlement for income loss to a minor.